

PRO BONO HANDBOOK FOR BAR LEADERS

Table of Contents

CONFERENCE INFORMATION

- TAB 1 AGENDA
- PARTICIPANTS
- WORKSHOP EVALUATION FORM

GENERAL INFORMATION

- TAB 2 "Private Bar Involvement in Legal Services to the Poor"
 by William Reece Smith, Jr., Chairman of the American
 Bar Association Consortium on Legal Services and the
 Public
- TAB 3 "How to Start a Pro Bono Program" by Michael Conway
- "Administering Pro Bono: The Bar Association Role" by
 Margaret Carlson
- TAB 4 "How to Hire A "Super" Pro Bono Coordinator" by
 Patricia J. Craig and Martha Lair
- TAB 5 Private Bar Involvement Program Profiles
- Pro Bono Neighborhood Clinics
- Family Law Teaching Clinic
- Training Seminars as Incentives
- Pro Bono for the Elderly
- Statewide Activation
- Recruitment Techniques
- TAB 6 "Let Pro Bono Work for You: Institutionalizing the Pro
 Bono Program" by Drucilla Stender Ramey
- TAB 7 "Other Avenues for Pro Bono Dedication" by J. Chrys
 Dougherty and Jarilyn Dupont
- TAB 8 Resources

American Bar Association
Private Bar Involvement Project
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AMERICAN BAR ASSOCIATION
Bar Leaders' Pro Bono Workshop

March 26-28, 1987
Seattle, Washington

Friday, March 27

- 8:00 a.m.- 1:00 p.m. Registration
Union Avenue Entrance, 2nd Floor
- 12:30 p.m.- 1:30 p.m. Lunch
Grand Ballroom C
- 1:45 p.m.- 3:00 p.m. Bar Leaders' Plenary Session
West Ballroom A
- Opening Remarks
Arthur M. Lewis, Chairman
ABA Standing Committee on Lawyers'
Public Service Responsibility
- Overview of Private Bar Involvement
Wm. Reece Smith, Jr., Chairman
ABA Consortium on Legal Services and
the Public
- Son of Pro Bono: The Philadelphia Story
Carl (Tobey) Oxholm, Chairman
Delivery of Legal Services Committee
Philadelphia Bar Association
- "Not For Sale" - A Role Play
J. Chrys Dougherty, Past President
State Bar of Texas
- David A. McMahan, President
The Missouri Bar
- Laurie D. Zelon, Member
ABA Standing Committee on Lawyers'
Public Service Responsibility
- 3:15 p.m.- 5:00 p.m. Small Group Breakout Sessions on
Delivery of Legal Services Issues
Group A, Room 416
Group B, Room 418
Group C, Room 424
- Evening Reception at the Seattle Aquarium
Buses will be available at the
Union Avenue Entrance, 2nd Floor

Bar Leaders' Pro Bono Workshop
Page two

Saturday, March 28

8:00 a.m.- 9:00 a.m. **Continental Breakfast**

8:30 a.m.- 9:30 a.m. **Point/Counterpoint**
Grand Ballroom C

Discussion between a bar leader and a Legal Services Corporation representative. Participants to be announced.

9:40 a.m.-12:40 a.m. **Concurrent Workshops:**

Choose from among twelve topical workshops

First session: 9:40-10:40
Second session: 10:45-12:45

or

Attend the pre-registered small group sessions focusing on intensive, hands-on training in the following areas:

- Public Relations
- Computer Applications
- Program Evaluation
- Quality Control
- Fundraising
- Strategic Planning

12:45 p.m.- 1:45 p.m. **Lunch**
Grand Ballroom C

2:00 p.m.- 2:30 p.m. **Wrap-up Report**
West Ballroom A

Synthesis and Analysis of Bar Leaders' Breakout group discussions

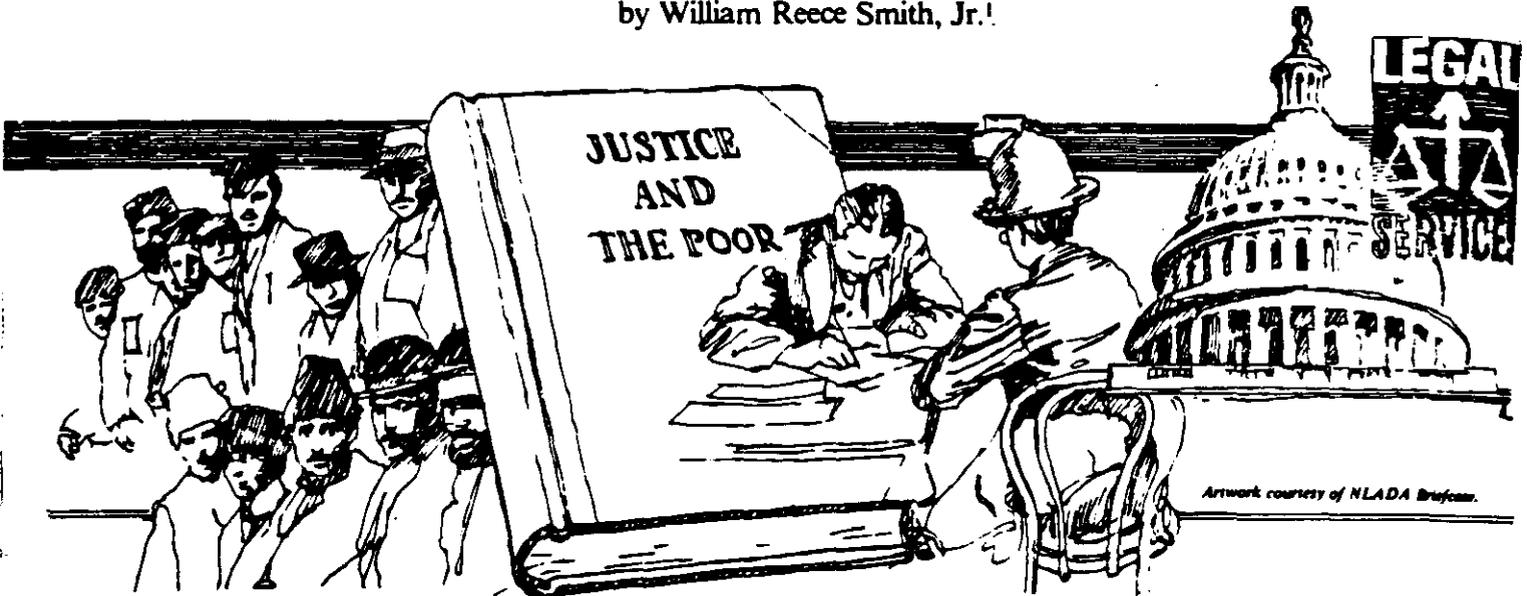
Bill Whitehurst, President
State Bar of Texas

6:00 p.m.-10:00 p.m. **Dinner Cruise on Puget Sound**

1362k

Private Bar Involvement in Legal Services to the Poor

by William Reece Smith, Jr.!



I will never reject, from any consideration personal to myself, the cause of the defenseless or oppressed, or delay any man's cause for lucre or malice.

As a condition to receiving the privileges and benefits of membership in the profession of law, we Florida lawyers, past and present, have each made this personal profession of responsibility to come to the aid of those who cannot otherwise afford our services. Many lawyers in Florida have been involved in fulfilling this obligation, but the history of rendering legal aid to the poor shows that the need has never been fully met. Today in Florida, as in many parts of the country, we are experiencing a resurgence in commitment to the lawyer's *pro bono publico* obligation, and while much still needs to be done, Florida lawyers can be justly proud of their progress.

This renewal in private bar involvement, fueled in part by cuts in funding of the Legal Services Corporation, has been marked by increasing cooperation between the private bar and the staffs of federally funded legal services programs. This development is especially heartening because for a time following the advent of federally funded legal services in the mid-sixties, significant

tension and mutual mistrust existed between the two groups. It also provides the foundation for what is undoubtedly one of the best state delivery systems for the poor in the United States.

The history of legal services to the poor in Florida closely parallels the movement in the country as a whole. In the early days before the organized movement began, individual lawyers sought to provide legal aid as a matter of personal charity rather than professional obligation. The totality of this effort was not enough; too few responded regularly, and the need was too great to be met by unorganized sporadic giving. In 1876, our nation's centennial year, the first legal aid society was founded in New York City to serve German immigrants. Arthur von Briesen, a prominent New York attorney, later became president of the society. Under von Briesen's leadership, the society amended its constitution to broaden its clientele; it earned the active support of some of the city's larger law firms, and its organization and operation became a model for societies in other cities.²

In the early part of this century, Reginald Heber Smith of Boston became a major force in the expansion of legal aid in the United States through his passionate

advocacy of organized bar involvement in legal aid. In his book, *Justice and the Poor*, published in 1919, Smith challenged the legal profession to become actively involved in legal aid, "to perform the full measure of the responsibility which rests on it as a profession, and thereby to put to an end the existing denial of justice to the poor in the United States."³

Smith's challenge influenced the organized bar significantly. In the 1920's, the American Bar Association created a Special Committee on Legal Aid, chaired by Charles Evans Hughes. This committee then became a standing committee and prompted a recommendation that state bar associations appoint similar committees. The ABA and other bar groups began actively to support the legal aid movement. Bar sponsored legal aid societies, often heavily dependent on the services of volunteer lawyers, became the model for the next 40 years. As the bar's involvement strengthened, so did the legal profession's ethical tenet that each lawyer has an obligation to help the poor.

Other compelling, but less altruistic, arguments were also proffered. Many lawyers cautioned that if the bar did not provide legal help to the poor, the federal government would do it, thereby taking the first

step toward "socialization" of the profession. Another argument was that the domestic tranquility and political stability of the country depended on providing everyone reasonable access to the courts. Many proponents of legal aid were concerned that people who lacked redress in the courts would seek that redress in the streets.⁴

Although the number of legal aid offices grew considerably as a result of bar association efforts, for the most part these

services to the poor from the vagaries of partisan politics. The result was the Legal Services Corporation created by Congress in 1974.

Despite the effectiveness of the federal programs and the support of many bar organizations, federal funding was also controversial. Recognizing the importance of an independent legal profession to a democratic society, many lawyers voiced again their concerns about possible social-

and Democrats went to individual legislators of both parties to plead the case of the poor. For many, it was their greatest hour as advocates. Their judges were persuaded; the corporation would survive.

Unfortunately, the previous level of corporation funding could not be saved and later in 1981 it was cut 25 percent. Corporation programs, and consequently the poor, suffered throughout the country. We have yet to overcome its impact.



were located in large metropolitan areas. There remained a vast unmet need. The bars' efforts were hampered by the fact that many lawyers still did not care to help. They were further impeded by lack of efficient organization and lack of the extensive financial resources necessary to get the job done. The need for services was growing with population growth and with the increasing complexity of life in our society.⁵

Establishment of the Legal Services Program

In the mid-sixties, as part of President Johnson's War on Poverty, the federal government entered the picture with the Legal Services Program established within the Office of Economic Opportunity. Federally funded legal services had the strong support of the American Bar Association and of its president, Lewis F. Powell, Jr. Great strides were made under OEO, but during the Nixon Administration, the federally funded program became an object of partisan political controversy: its activities were substantially curtailed and its very existence threatened. Again the private bars supported a campaign to create a federally funded, but independent, organization that would insulate legal

ization of the profession. Some lawyers and lay people also criticized the new professional poverty lawyers for being social engineers more than lawyers. Some staff attorneys in federally funded programs accused the private bar of not being committed to helping the poor. And as poverty law became viewed more and more as a separate specialty requiring particular skills and experiences, staff attorneys and private practitioners alike began to believe that private lawyers were not competent to render services to the poor. Conflict and tension developed and while in some localities the private bar and professional poverty lawyers cooperated reasonably well, as the Legal Services Corporation grew in strength and resolve in the late seventies, the private bar increasingly relinquished the legal aid field to LSC projects.

Another great crisis brought the two groups together as never before. In 1981, the new Republican administration sought to eliminate funding and thus to terminate the Legal Services Corporation. Putting aside political and philosophical differences, over 400 representatives of state and local bar associations went to Washington to join the ABA in an intense lobbying effort to save the corporation. Lawyers, Republicans

The attack on the corporation had some healthy effects. Corporation lawyers and the organized bar had joined the common cause to save the corporation, and they began to cooperate as never before. Soon, the ABA took the unprecedented step of committing over a half million dollars annually to programs designed to stimulate private bar involvement in the provision of legal services to the poor. The corporation board directed its grantees to devote 10 percent of their basic grants to private bar involvement; later the number was increased to 12½ percent. These joint efforts resulted in the growth of bar sponsored pro bono programs to more than 400 in less than five years. More than 75,000 lawyers have joined in voluntary legal aid work. In 18 states, 20 percent or more of the bar is involved. In six states, the number is over 30 percent. Nationwide at least 12 percent of all persons licensed to practice law are engaged in pro bono work.⁶ In short, during the last four years more progress has been made than in the rest of our nation's history.

Florida's Role

The Florida Bar was one of the first to respond to the call to help save the Legal Services Corporation. A delegation of

Florida lawyers went to Washington to place the cause of the poor before the Florida congressional delegation. The response by The Florida Bar was a recognition of the importance of federally funded legal services for the poor in Florida, a development many initially resisted in the early sixties.

Before the advent of the OEO and the Legal Services Corporation, legal aid in Florida was provided primarily by bar sponsored legal aid societies which relied substantially on the services of volunteer lawyers. The movement to establish these societies in Florida was hampered by attitudes like those expressed in a report of the Legal Aid Committee of the Florida State Bar Association in 1941:

Some of the members of the Bar Association in the smaller communities seem to feel [legal aid] is such a trifling problem that each lawyer in his own practice . . . will . . . administer a sufficient amount of legal aid to take care of all those who are in need and that there is no necessity of any formal bureau or committee to attend to legal aid work. . . . [M]any of the lawyers discourage such matters, for they do not wish to take the time, and do not wish to have legal aid clients sitting about their offices.⁷

Despite these attitudes, committed lawyers in Florida continued to work for the establishment of organized legal aid. For many years organized legal aid was a reality only in the larger cities such as Jacksonville, Miami, and Tampa.⁸ In 1960, the number of organizations in the state had grown to 13, but these were small offices with a few paid staff members supplemented by volunteer lawyers.⁹ The private bar was certainly attempting to help the poor but the need was simply too great.

OEO Viewed With Suspicion

The legal services program of the OEO was designed to help meet this increased need. But many in The Florida Bar, like their counterparts in other states, viewed the OEO with some concern and suspicion. Bar leaders passed a resolution in March 1966 stating commitment to cooperation with OEO in expanding legal services to the poor but opposing the initiation of any programs for legal services in Florida without the organized bar first having had an opportunity to qualify to provide such services.¹⁰ Earlier The Florida Bar had submitted and was denied a proposal to the OEO that provided for the coordination of the legal services program in Florida by The Florida Bar.¹¹ There was concern about the potential threat of the new delivery systems to ethical tenets of the legal profession such as the prohibition against solicitation and

the use of lay intermediaries. There was also concern about loss of control over an important element of the practice of law in the state and of potential socialization of the profession. Many believed bar supervision was necessary to fulfill The Florida Bar's obligation to protect the public through its prescription and maintenance of the standards for the practice of law in the state.

Although this total supervision was



denied, bar organizations in Florida did cooperate in setting up federally funded programs. In March 1966, the Dade County Bar Association was the first group in Florida to receive OEO approval for its plan. By 1971, OEO projects were in 10 counties and 18 bar sponsored legal aid societies. In some counties, such as Hillsborough, an OEO program and a legal aid society existed side by side, both nurtured by the local bar.¹²

Despite these gains, it was obvious that greater efforts were needed. In 1970, under the leadership of President Burton Young, The Florida Bar commissioned a study of the legal needs of the poor in the state. This study, known as the "Levinson Report," clearly demonstrated that in 1971 there were vast unmet needs of the poor in Florida for legal services. Prominent in the study was the finding that only 21 of Florida's 67 counties had an organized program for provision of legal services to the poor and many were struggling to meet the demand. The study also found that no substantial pro bono service was being rendered by lawyers. Problems in OEO had developed and support for federally funded legal services was eroding.

One of the study's primary recommendations was that a nonprofit corporation be established for the expansion and coordination of legal services to the poor on a

statewide basis. In response, The Florida Bar, in cooperation with the Governor's Office and legal services programs, organized Florida Legal Services, Inc.¹³ The role of FLS has been crucial in helping to expand legal services for the poor through legislative and administrative advocacy, coordination of services, and support for local programs.

In 1975 when the Legal Services Corporation became a reality, its impact in Florida was great. From 1976 to 1979, LSC funding increased from \$1.9 million to \$7.7 million.

The number of poor people having access to legal services more than doubled in the same period.¹⁴ The expansion of LSC funded programs was obviously a blessing for the state, but it indirectly fostered a widening separation between the private bar and the professional legal services community. Although in some localities cooperation between the groups continued, in others there was outright hostility. Pro bono involvement suffered considerably, partly because of an erroneous perception that the success of the LSC programs had eliminated the need for private lawyer participation.

The falsity of this perception was vividly illustrated by a 1980 Florida Bar study which revealed that the LSC, then at the peak of its funding, could meet no more than a fraction of the needs of the poor and that Bar-sponsored legal aid programs using volunteer lawyers should be revitalized.¹⁵ The fight to save the corporation and the subsequent cuts in LSC funding strengthened the resolve of The Florida Bar to invigorate pro bono activities in the state. The Florida Bar established a project, now a part of Florida Legal Services, Inc.¹⁶

coordinate pro bono participation with local LSC offices. This revival and the effects in Florida of the 10 percent and subsequent 12½ percent instructions from the corporation and the augmented pro bono activities of the ABA have helped the state produce one of the best records of pro bono service in the country. And much to its credit, in 1982 The Florida Bar asserted its role as a national leader in public service when it became the first state to implement an interest on trust accounts program.¹⁶ The income generated by IOTA goes primarily to providing legal services to the poor.

Representation of the poor in Florida is now based firmly on a mixed delivery system of staff attorneys whose efforts are supplemented by volunteer lawyers. This mixed system is very effective as described in the articles that follow.

It is important that the pro bono work of the private bar be encouraged and strengthened. There will never be enough federal funds to meet fully the legal needs of the poor. The volunteer efforts of private lawyers will always be essential; the bar's pro bono potential must be fully realized if we are to make meaningful our nation's promise of equal justice.

This union of the private bar and federally funded staff attorneys is highly appropriate for philosophical as well as practical reasons. The duty of serving the legal needs of the poor does not, as some suggest, lie solely with the legal profession. Inadequate legal services for the poor is a societal problem. Its causes are complex. Responsibility for its solution therefore lies, in great part, with the nation as a whole. Federally funded legal services to the poor are an affirmation of our national commitment to equal justice for all.

But we in the legal profession have a special obligation because of our training, skill, and role as officers of the court. We understand that rights can be meaningless without access to the legal representation necessary to enforce those rights. And we are, of course, uniquely equipped by education and experience to provide that representation. But most important, we are members of a learned profession. Public service is the key element that distinguishes a profession from a mere commercial enterprise. Change abounds in the legal profession today, and many people feel we are guided more by the market place than by the oath we took as lawyers. We must never let this perception become a reality. By strengthening our commitment to the highest goals of public service, we will help

fulfill our country's promise of equal justice under law for the poor people of Florida and the nation. □

¹I wish to acknowledge the assistance of E. Diane Clark, assistant professor of law, Stetson College of Law, in the preparation of this article.

²For a complete history of this first legal aid society, see generally REGINALD HEBER SMITH, JUSTICE AND THE POOR 134-40 (1919), and EMERY A. BROWNELL, LEGAL AID IN THE UNITED STATES 7-8 (1951).

³SMITH, *supra* note 2, at 239.

⁴Address by Lyman Abbot, 25th anniversary dinner of The Legal Aid Society in New York (1901), quoted in Smith, *Introduction to BROWNELL, supra* note 2, at xiii.

⁵For information concerning legal aid and the legal needs of the poor prior to the advent of federal funding, see generally BROWNELL, *supra* note 2; BROWNELL, LEGAL AID IN THE UNITED STATES, 1961 SUPPLEMENT (1961); Jerome E. Carlin & Jan Howard, *Legal Representation and Class Justice*, 12 U.C.L.A. L. REV. 381 (1965); Orison S. Marden, *Equal Access to Justice: The Challenge and the Opportunity*, 19 WASH. & LEE L. REV. 153 (1962).

⁶For these and other statistics, see American Bar Association Consortium on Legal Services and the Public Through the Private Bar Involvement Project, THE 1985 DIRECTORY OF PRIVATE BAR INVOLVEMENT PROGRAMS, Tables 1-10 at 195-204 (April 1985). Note that these figures are based on a survey conducted in the fall of 1984.

⁷Report of Legal Aid Committee, 15 FLA. L.J. 177-78 (1941).

⁸See, e.g., Report of Committee on Legal Aid, 13 FLA. L.J. 83 (1939); Report of Committee on Legal Aid Work, 20 FLA. L.J. 90 (1946). Organized legal aid in Florida began with the Duval County Emergency Relief Committee established in 1931.

⁹For a contemporary account of the volunteer spirit in these offices, see *Legal Aid Lawyers Give Services*, 34 FLA. B.J. 1040 (1960).

¹⁰Resolution on Legal Services to the Poor, 40 FLA. B.J. 267 (1966).

¹¹*Id.* See also Marshall M. Criser, *Law, Poverty and The Florida Bar*, 40 FLA. B.J. 304, 305 (1966); *Law and Poverty: Variations on a Governmental Theme*, 40 FLA. B.J. 311, 317-18 (1966).

¹²See generally L. HAROLD LEVINSON, LEGAL SERVICES CURRENTLY AVAILABLE TO THE INDIGENT IN FLORIDA — PART I (1977); L. HAROLD LEVINSON & HOPE STRONG III, PART II — METHODS OF INCREASING THE SUPPLY OF LEGAL SERVICES TO THE INDIGENT IN FLORIDA (1972).

¹³See William Reece Smith, Jr., *Development of Florida Legal Services, Inc.*, 48 FLA. B.J. 733 (1974); Thomas E. Norman, Jr. & William J.

Manikas, *Legal Aid Development in Florida*, 48 FLA. B.J. 735 (1974).

¹⁴For a table of these and other statistics, see THE LEGAL NEEDS OF THE POOR AND UNDER-REPRESENTED CITIZENS OF FLORIDA: AN OVERVIEW, Appendix I at 217-18. This study was ordered by the court in the case of *The Florida Bar v. Rosemary W. Furman*, 376 So. 2d 378 (Fla. 1979), and is commonly known as the "Furman Report."

¹⁵See THE LEGAL NEEDS OF THE POOR, *supra* note 14, at 3-29, 40-48, 112-116.

¹⁶See *In re Interest on Trust Accounts*, 356 So. 2d 799, 799-800 (Fla. 1978).



William Reece Smith, Jr. is chairman of Carlton, Fields, Ward, Emmanuel, Smith & Cutler, Tampa, and is engaged principally in litigation practice. Smith received his B.S. from the University of South Carolina in 1946, his J.D. (with high honors) from the University of Florida in 1949 and was a Rhodes Scholar at Oxford University.

He is past president of the Hillsborough County Bar (1963), The Florida Bar (1972), the American Bar Endowment (1976), the National Conference of Bar Presidents (1978) and the American Bar Association (1980). He currently serves as secretary general of the International Bar Association and chairman of the ABA Consortium on the Delivery of Legal Services. Smith was the founding president of Florida Legal Services, Inc. As ABA president he rallied the organized bar of America in opposition to powerful efforts by the Reagan Administration to terminate the Legal Services Corporation.

Media files are available upon request for The Florida Bar Journal and Florida Bar News.

Write Advertising, The Florida Bar Journal, Tallahassee, FL 32301.

How to Start a Pro Bono Program

by

Michael Conway

For a bar leader there are three essential steps in the creation of a bar sponsored pro bono program - education, endorsement and implementation.

Education

It is extremely important to become familiar with the following: Current and future cutbacks at the legal service office that serves your community, Private Attorney Involvement Regulation - 14CFR Part 1614, pro bono administration, and current pro bono initiatives.

In 1981 legal service offices suffered cutbacks of 25%. These cutbacks have affected the number of attorneys, paralegals and secretaries employed by your legal service office. Also, it has affected the types and number of cases that the legal service staff can handle. A recognition of the consequences of these cutbacks provides the rationale for the creation of an effective pro bono program.

Secondly, an examination of the Private Attorney Involvement Regulation 14CFR Part 1614 will be instructive on the guidelines that local legal service offices have to comply with in implementing pro bono. As you know, the essential feature of the Regulation is the requirement that 12 1/2 percent of each legal service office's annualized basic field grant be spent to give private attorneys the opportunity to assist in delivering legal services to the poor. A bar leader should become cognizant of how the 12 1/2 percent money is being spent in his community.

The ABA strongly believes that pro bono services by private attorneys are an essential component in the mix of systems used to provide legal assistance to the poor. If, in your community the 12 1/2 percent money is used exclusively for a compensated program (judicare or contract), we hope you will initiate an effort to either replace this program with one based on pro bono, or to request compensated lawyers to also participate in a new pro bono program.

Third, a bar leader should understand that a pro bono program can be administered in several different ways. Bar associations with sufficient resources may wish to begin their own program, probably in cooperation with local legal services office. But a pro bono program can also be administered

entirely by the local legal service office with bar support and encouragement. A majority of all pro bono programs in the country are administered from the local legal service office. I've included a caseflow chart prepared by the Private Bar Involvement Project for the Fayette County Bar Association (Lexington, Kentucky) illustrating how a pro bono program can be administered from a legal service office. The caseflow chart illustrates the roles and duties of a pro bono coordinator.

Finally, there should be a review of any ongoing ad hoc pro bono or low-fee criminal defense assignments in the community. In many areas where there are no public defenders many criminal cases are assigned to local attorneys. If criminal case assignment occurs within your community there should be coordination between the pro bono program and the judges who assign cases so that some attorneys do not bear a disproportionate burden.

Bar Endorsement

It is critical to have your bar association's governing board endorse a resolution supporting pro bono. Passage of a resolution by the board will bring credibility to pro bono. Once a resolution is passed you should ask your board for permission to appoint a pro bono implementation committee. The membership of a pro bono committee should be the bar president and/or president-elect, several members from large law firms, solo practitioners, legal service representative, government attorney, a corporate counsel and representatives from minority bars. Members' terms should be staggered so that not all members leave after one year. This gives the committee diversity.

Implementation

In the beginning, the committee should meet once a month. The committee's goal will be establishing policy and procedures, recruitment and the hiring of a pro bono coordinator.

It is important for the committee to decide on the policy and procedures of the pro bono program. The committee will consider the types of cases to be referred, the referral process and case oversight and follow-up. The committee will also address expenses, malpractice insurance and the roles of fee-generating and conflict cases.

Once a coordinator has been hired, the committee should assist in the recruitment effort. In many successful pro bono programs the first attempt at recruitment is by letter. The letter is signed by the committee members, president and president-elect and other leaders in the bar association. The letter will have a sign up sheet attached. After the sign up sheets are returned the committee should evaluate the recruitment. After the evaluation, the committee should decide if future letters should be mailed or if other recruitment methods are necessary - phone contacts, personal outreach, judicial support.

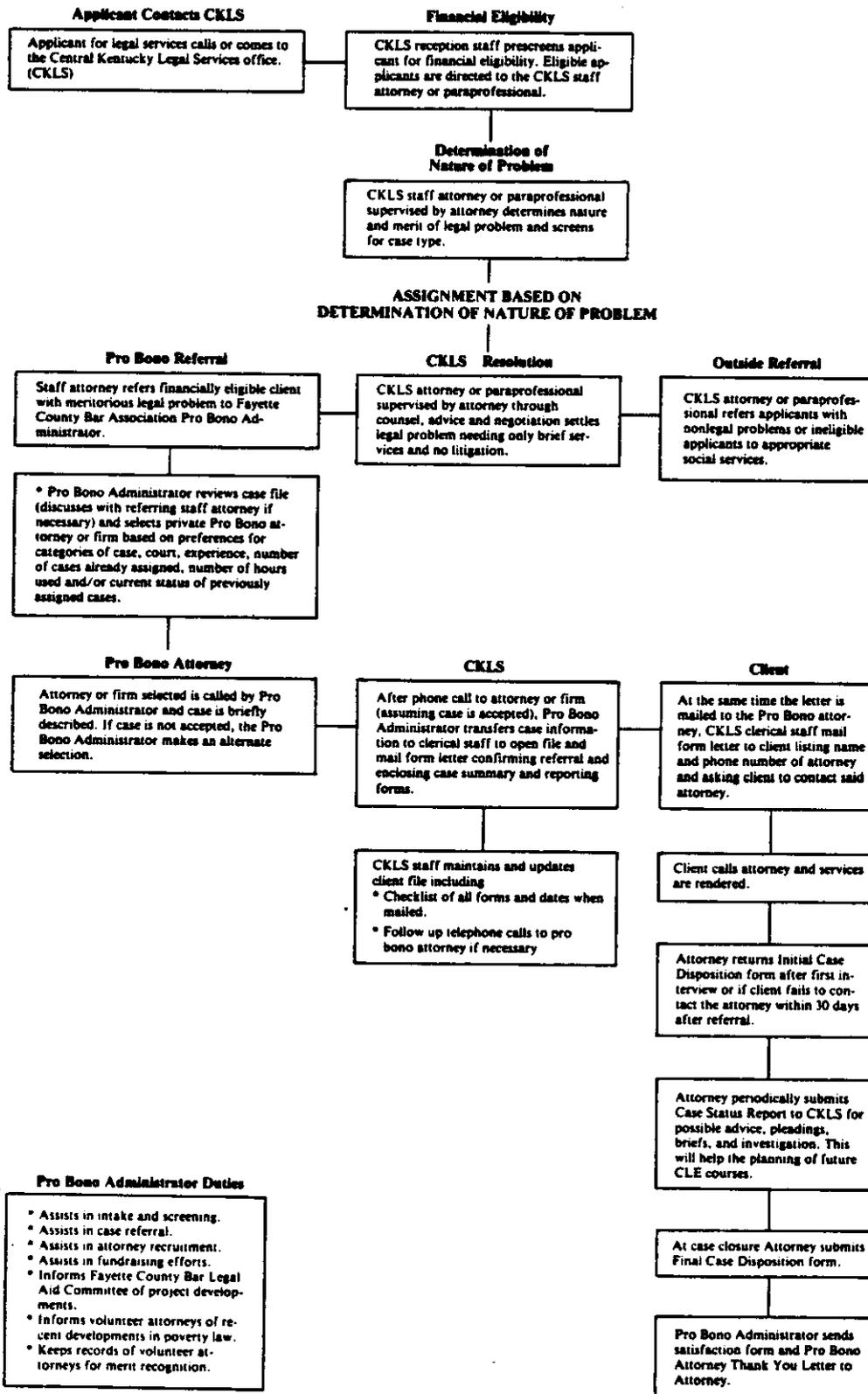
The pro bono coordinator position may be funded, not only from 12 1/2% funding, but from bar contributions, filing fees, and large firm contributions. A pro bono coordinator should have strong skills in communication, cooperation, motivation and implementation. Depending on your bar and the community to be served a pro bono coordinator may be full or part-time. If the coordinator is full or part-time and funded entirely from 12 1/2% funding and housed at legal services make sure their pro bono duties and responsibilities are listed within their job description.

I have provided a broad outline of the steps necessary in organizing a pro bono program. The ABA Private Bar Involvement Project has detailed information on how to best accomplish each task I have outlined. We can provide quick answers over the telephone if you encounter any difficulties. We have several consultants with expertise in establishing and maintaining a pro bono program. Upon request, these consultants will meet with you and others in your legal community to develop a workable plan and to negotiate solutions to difficult problems. In short, the Private Bar Involvement Project is ready to assist your bar association in starting a pro bono program.

Michael Conway is a former Program Consultant with the American Bar Association Private Bar Involvement Project.

**FAYETTE COUNTY BAR ASSOCIATION PRO BONO PROJECT
CASE FLOW CHART**

Appendix I



Administering Pro Bono: The Bar Association Role

by

Margaret Carlson

Bar association involvement in pro bono programs is essential if those programs are to be successful over the long run. In the five years since the boom in pro bono programs began -- before 1982, there were fewer than 50 pro bono programs in this country; now there are more than 400 -- we have seen that the programs that last, that succeed, that grow are those with strong and meaningful bar association support and involvement.

In the outline that follows, we will focus on the structure of bar involvement, from advisory boards and task forces to the role of the bar president. But it is important to remember that having structure is meaningless if there is nothing which to fill the structure. The "how" and "why" of bar involvement are exceptionally important; therefore, the rest of the articles in this manual focus on the methods, activities, and reasons.

In brief, because the elected bar leadership changes every year, continuing structures to support pro bono work are necessary. A structure for pro bono programs within the bar association also signals bar "institutionalization" of the program, legitimizing pro bono as an integral part of bar operations. In addition, pro bono structure within the bar allow a contact point for national, state, and other local organizations involved in pro bono activities.

In general, this article is addressed to bar associations that work with separately incorporated pro bono programs, programs that are part of federally-funded legal services offices, or programs that are part of social services agencies. These kinds of pro bono programs constitute the vast majority of existing programs, but there are a number of bar associations, both state and local, that operate their own direct service delivery pro bono programs. Much of what is contained in the outline that follows will be useful to these bar associations also, because the basics of bar involvement hold true no matter which organization hires the employees and makes the policy decisions. The constants are bar involvement in recruiting volunteers, publicizing the program in both the legal community and social service community, policy advice or policy making, long-range planning, and funding.

The key players are constant in most programs also. They are the bar association itself, legal services staff and boards, staff of pro bono programs, bar members, volunteers attorneys, the social service providers, and clients. All should be considered and consulted in designing or revitalizing bar structure for pro bono programs. The structures are:

- I. Advisory board/independent board
- II. Legal aid committee
- III. Pro bono committee
- IV. Bar executive committee
- V. Bar president/president-elect
- VI. Pro bono task force
- VII. Young Lawyers' Section
- VIII. Lawyers' Auxiliary

I. Advisory Board/Independent Board

Every pro bono program should have its own board, regardless of size, whether or not it is separately incorporated or part of the legal services office or bar association. This article will not attempt to address whether a pro bono program should be separately incorporated; that decision is so truly dependent on local circumstances that general discussion may be confusing.

The board of a separately incorporated program, unlike an advisory board, will have fiscal and legal responsibility, personnel administration duties, grievance procedure administration for clients and volunteers, and policy-setting responsibility. The board of a separately incorporated organization should have insurance coverage for its members, and should be able to insure program compliance with grant conditions.

This outline, therefore, will focus on roles both advisory boards and independent boards have in common.

A. Role

It is helpful to establish sub-committees for many of these tasks.

1. Fundraising
2. Publicity
3. Recruitment (including non-lawyers, both lay and professional)
4. Volunteer recognition
5. Advice/direction on policy-setting
6. Long-range planning
7. Establishing and monitoring special projects such as immigration projects, services for the elderly, or family law clinics

Administering:

Bar Association Role (cont'd)
Page Three

B. Membership

Should be mixture of urban/rural members, and include creative idea-generators and hard workers

1. bar president or president-elect
2. judges
3. members of large and small firms
4. government and corporate law department attorneys
5. social service providers
6. legal services providers
7. bar association legal aid committee chair
8. liaisons from other committees (such as family law)
9. liaisons from other local bar associations (such as minority bars)
10. news media representatives

C. Intangibles

1. Boards can serve as valuable sensors of legal community attitudes toward the program
2. Excellent for providing access to non-lawyer volunteers
3. Boards can stimulate donations from the legal and business communities
4. Liaison to judges, mediation programs
5. Good source for problem-solving
6. Relief for/understanding of staff pressures

II. Legal Aid Committee

This committee is valuable for all bar associations, especially state bars and larger local bars. These committees typically have a broader scope than pro bono; their mandates often include responsibility for bar association response to the entire range of civil services and criminal defense services for the poor and/or near poor. Their value to pro bono programs is:

- A. Insight about how pro bono programs can best fit into the total delivery system
- B. Subcommittee on pro bono programs
- C. Sponsoring panel discussions/workshops on pro bono work
- D. Awards/recognition for outstanding volunteers

III. Pro Bono Committee

A. Value for Specific Pro Bono Programs

Many pro bono committees function essentially as advisory boards for a specific bar-sponsored pro bono program; others recruit volunteers for a number of pro bono programs, whether connected to the bar association or not. Most pro bono committees get their start as steering committees to study the need for and best structure for a pro bono program, or as bar association recognition of its need to devote more attention to an existing (usually legal services-operated) pro bono program.

B. Range of Additional Activities

1. Encourage and support spin-off projects to serve special groups that the general pro bono programs cannot serve, e.g., battered women; guardian ad litem needs; wills projects; immigration projects, including political asylum and legalization; and outreach to the homeless.

2. Focus committee for bar activities in law-related education, community legal education, and ask-a-lawyer program. This is valuable for smaller bar associations in which one committee may be required to coordinate most of the bar's public service activities. These committees are sometimes called the Public Justice Committee or the Public Interest Committee.

IV. Bar Executive Committee

This is the bar association's governing body. It is vastly important that its members support and understand the pro bono program.

- A. Should receive regular and well-prepared information about the pro bono program, presented by the program coordinator and board members. The information should always be accurate; no puff pieces.

- B. The pro bono program should solicit and welcome advice from the committee.

- C. The committee should officially endorse the pro bono program, recognize it as an important bar program, fund it, and provide board members.

Administering:

Bar Association Role (cont'd)
Page Five

V. Bar President/President-Elect

- A. Make pro bono service a priority for his or her year. Pro bono programs should emphasize "education" for the president: history and goals of the pro bono movement, the extent of local need for legal services, and the involvement of bar associations nationwide, for instance.
- B. Include information about the need for pro bono work in every speech.
- C. Take part in recruitment and recognition events, speak at receptions, luncheons, trainings.
- D. Establish a president's award for pro bono work.
- E. Author articles in bar publications and pro bono program newsletters about the program.

VI. Pro Bono Task Force

The task force is usually a one-time effort to establish or improve either the bar association's total pro bono service or a specific pro bono program.

- A. A "blue-ribbon" group of savvy bar members, including those knowledgeable about legal services, should be appointed to the task force.
- B. Should perform a careful analysis and study of the program before making recommendations.
- C. Should not disband before implementation begins. The group can be very effective in designing an implementation strategy and monitoring program progress.
- D. Often has the effect of directing bar attention to the pro bono program, thus improving the program's chances by its mere existence.
- E. Can be the genesis of an influential advisory group or of friends of the program.

VII. Young Lawyer's Sections

While not usually the sponsors of full-service pro bono programs connected to legal services offices, YLS often sponsors programs for special client groups, e.g., imprisoned mothers, runaway children, battered women, the disabled. YLS

Administering:

Bar Association Role (cont'd)
Page Six

often are active in sponsoring continuing legal education programs, radio and television call-a-lawyer programs, advice clinics for Law Day, and law-related education programs.

Their value for pro bono programs is:

A. Useful for recruitment ideas and help, and for gauging the interests of a large percentage of the bar. In most bar associations, those under age 36 or newly-admitted to the bar constitute more than 60% of total membership.

B. Often, young lawyers volunteer their services to more than one pro bono organization. YLS can be very helpful in coordinating recruitment for all their members.

C. YLS usually sponsors more events than other bar groups, such as trainings, seminars, social functions, sporting events, fundraisers. Pro bono programs can ask for time on the agenda or space for a recruiting table.

VIII. Lawyers' Auxiliaries

A minority of bar associations have lawyers' auxiliaries; these groups are traditionally composed of lawyers' spouses.

Their value to pro bono programs are:

A. Help with recruitment

B. Work as client interviewers, help in program administration, preparing client information packets on various areas of the law, preparing directories of free legal services, staffing advice clinics

C. Recognition and award events

D. Fundraising

Conclusion

These structures for bar association involvement in pro bono programs are intended as descriptions of the most common models of successful bar involvement. We encourage bar associations to determine the structures that best fit their needs and modify as necessary. The American Bar Association Private Bar Involvement Project stands ready to help bar associations design effective structures. Please call the Project at (312) 988-5772 for further information.

Margaret Carlson is a Program Consultant with the American Bar Association Private Bar Involvement Project.
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How to Hire A "Super" Pro Bono Coordinator

by

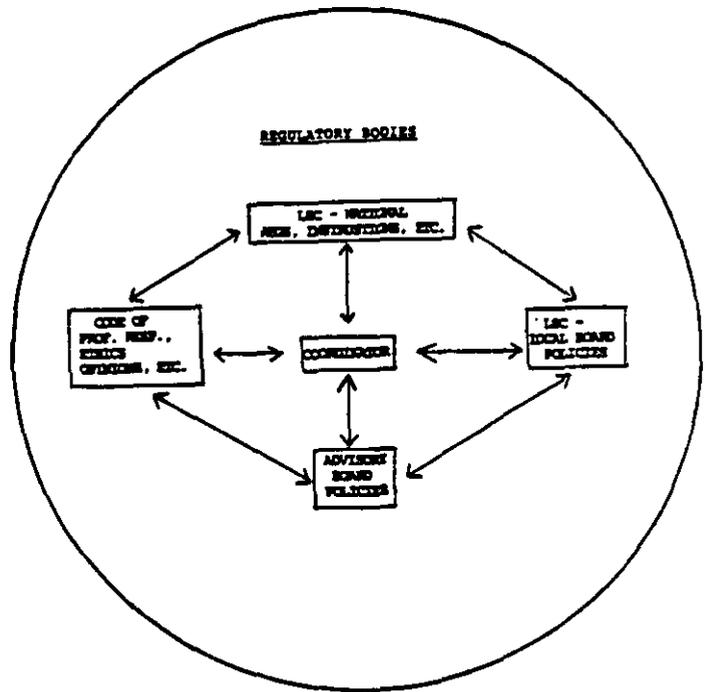
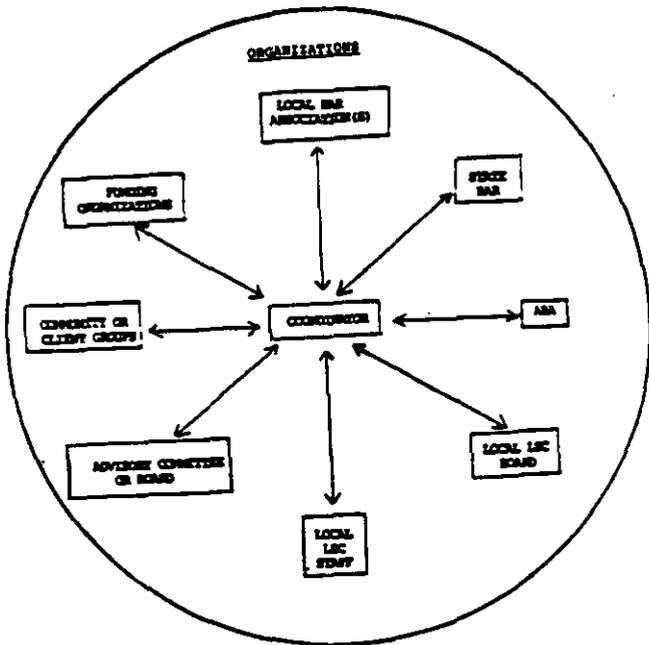
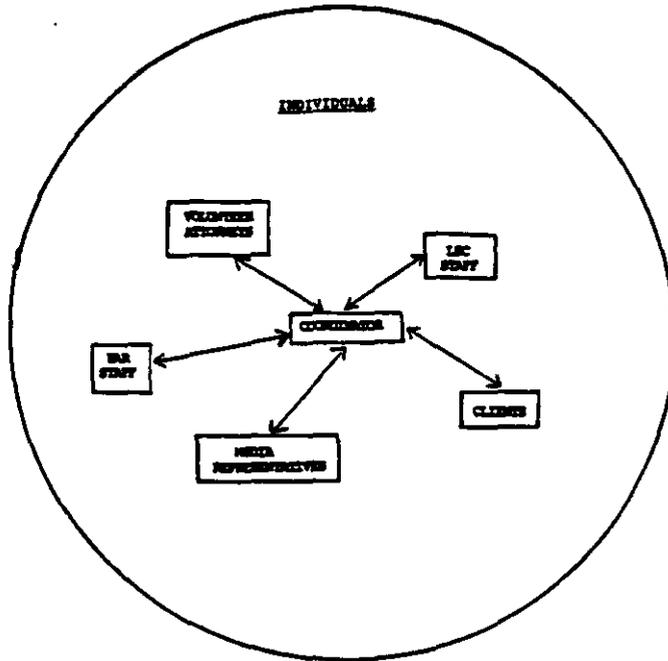
Patricia J. Craig and Martha Lair

The character of any pro bono project, to a large degree, is based on the personality of the Coordinator. The reasons for this include the independent nature of the job, and the interrelationships of the community, the coordinator, and the project. A frequently-heard comment when describing a pro bono project, is "without him/her (the Coordinator), this project wouldn't have been such a success." Therefore, it is essential to get the right person for the job.

The first step in getting that right person for the job is defining what the job requires. Obviously, you are looking for a "Super Coordinator" someone who can leap complicated cases in a single bound, balance clients in one hand and attorneys in the other, while simultaneously juggling community relations on one foot and ethical concerns on the other. Not to mention raising funds to keep the program going.

Defining the tasks that the coordinator will perform requires carefully examining the program's operations. The coordinator interacts with the client community, other legal services providers, the bar association and its advisory committees, the volunteer panel, the media, funding organizations, and technical assistance resources. A helpful system for organizing these interactions is to structure them into relationships with individuals, organizations, and regulatory bodies.

How to Hire a Pro Bono
Coordinator (cont'd)
Page Two



This scheme merely hints at the professionalism required of the coordinator. An individual capable of fulfilling all of these roles must be both extremely personable and highly organized.

The next step for defining the role of the coordinator is to prepare a detailed job description. What follows is a list of the major tasks commonly included in a coordinator job description.

Sample Outline of a Pro Bono Coordinator Job Description

- I. Design and implement volunteer recruiting strategies
 - A. Attorney recruiting
 - B. Non-attorney professional recruiting
 - C. Lay volunteer recruiting
- II. Client Intake and Referral
 - A. Client eligibility screening and interview
 - B. Referral to attorneys
 - C. Followup with attorney and client
 - D. Maintain client/attorney/office records and statistics
- III. Provide Resources for Volunteer Support
 - A. Provide substantive education programs
 - B. Maintain library of procedural and substantive materials
 - C. Provide ongoing case support
- IV. Provide information to the general community
 - A. Publicize availability of resources
 - B. Organize community education projects
 - C. Publicize activities of the bar association
- V. Investigate funding sources
 - A. Write grant proposals
 - B. Develop local fundraising campaigns
 - C. Fulfill current funding source reporting requirements
- VI. Develop a liason with technical assistance resources

The above tasks are not an exhaustive listing of the job duties of a pro bono coordinator. The job description for your program's coordinator should be tailored to your program and it should be re-evaluated within the first six months of the coordinator's tenure. This will ensure that both the coordinator and the program advisory committee develop a common view of the direction of the coordinator's efforts.

After defining the tasks that your coordinator needs to perform you will next want to identify the characteristics needed by an individual who can perform these tasks effectively. A brief listing of the characteristics of highly successful pro bono coordinators would include:

1. Professional attitude
2. Excellent persuasive abilities
3. Good interpersonal skills, diplomacy and tact
4. Ability to work effectively with a wide variety of people
5. Ability to tolerate a great deal of ambiguity
6. Highly developed sense of personal organization
7. A strongly self-motivated and creative individual

Advertising and Interviewing

Locating the "super" coordinator is much the same process as finding the ideal associate. The position should be advertised in state and local bar journals, legal newspapers, and general circulation newspapers. Also "advertise" the position with your colleagues, they may know of candidates. Since many statewide pro bono coordinator associations are developing, contact them to see if they will place an announcement in their newsletter. The American Bar Association Private Bar Involvement Project also publishes a monthly news bulletin which includes job openings for pro bono coordinators.

A Job Selection Committee should be formed which will be responsible for the interviewing and final selection process. The committee should develop a checklist of the basic qualifications for the job that are easy to identify by scanning the resume. This checklist can then be used for an initial screening of the applications. It's best to have two people conduct the initial screening of resumes to avoid missing that perfect candidate.

Several individuals should conduct the job interviews to provide multiple perspectives, much akin to the exposing the candidate to the variety of individuals they will work with in the job. One of the interviewers should be an individual with experience in a pro bono project. This individual can provide hypothetical situations to test the applicant's responses to the daily management issues faced when running a program. Sample hypotheticals could include conflict of interest questions and confidentiality of client records.

The candidates will also want to know about your program; be prepared with a synopsis of the project's history, its structure and goals. Because the committee has already developed a job description you will also be prepared to describe job duties and performance expectations. Include the intangible benefits that the job offers the candidate; great experience, rewarding work, variety of duties, independence, and a chance to grow.

At this point the decision should be which of the qualified candidates is most likely to provide the best services for your program.

"Managing" the Coordinator

Because your program has hired an individual who is highly independent and creative the tendency is to assume they will not need or want guidance from a program advisory committee. However, realizing that the coordinator role is to implement program goals, not dictate them, is critical to the long-term success of any pro bono effort. Although success of the program is largely due to the day-to-day efforts of the coordinator, the coordinator alone cannot ensure the long-term success of the program. The overall role that a program advisory committee should serve in strengthening and guiding a pro bono program is not the focus of this paper and deserves a separate discussion. Suffice it to say, for the purposes of this limited discussion, that the goals of the program should be supplied by the program advisory committee. The coordinator's work is to provide major input into that decision process and to implement the goals into a plan of operation.

However, "managing" a coordinator is a role that relates directly to achieving the program goals. Managing a coordinator does not imply supervising the coordinator's daily activities. The program advisory committee's role, in terms of fulfilling their personnel management responsibility, is to:

- o Define program goals and timeframes. This provides for clear performance expectations for both the oversight group and the coordinator.

- o Provide regularly scheduled input into the coordinator's plan for implementing the program goals
- o Establish a chain of command for problem resolution
- o Determine individual performance criteria and review timeframes

Because a coordinator performs the majority of job duties independently it is often difficult to assess performance. Included in the Appendices to this article are two worksheets that should assist the program's oversight group in evaluating coordinator performance. These are intended as frameworks only, they must be tailored to the needs of your program.

It is especially important in "managing" a coordinator to define as many of the job performance evaluation criteria as possible in terms of concrete objective goals, for example producing a program recruitment brochure in six months. This not only assists the coordinator in time-management it provides a framework for the oversight committee to use in prioritizing the general program goals.

Conclusion

We hope that this paper will give program advisory committees direction, both in terms of hiring a "super" coordinator and in "managing" the activities of that coordinator. Selecting a coordinator who can perform all of the job duties effectively is a difficult task. Once that individual is selected it is important to remember that even the best coordinators need and want feedback from the individuals who are the long-term directors of the program.

Patricia J. Craig and Martha Lair are Pro Bono Coordinators with the Northwest Colorado Legal Services Program. The authors wish to express their appreciation to Kay Paine, former Colorado Bar Association Pro Bono Project Legal Services Director, for the preparation of the relationship chart and the Appendices contained in this article.

Appendix I

CRITERIA TO ASSESS COORDINATOR'S PERFORMANCE

. Ability to communicate with:

Organizations
Individuals

. Ability to coordinate and cooperate with:

Organizations
Individuals

. Ability to implement:

Policies
Regulations
Instructions

. Ability to motivate:

Individuals (volunteer attorneys)
Organizations (local bar association, local LSC,)

. Ability to plan for future/set goals, etc. with:

Organizations (advisory board, local bar)
Individuals (LSC staff, volunteer attorneys, etc.)

Appendix II

METHODS TO ASSESS COORDINATOR PERFORMANCE

- a) Review of written and oral reports from the Coordinator
- b) In depth interview of coordinator
- c) Review of case files
- d) Random phone sampling of:
 - volunteer attorneys
 - clients
 - LSC staff
 - representative of client organizations, etc.
- e) Review of program policies, work plans, etc.
- f) Review of program goals, both long term and short

Let Pro Bono Work for You: Institutionalizing the Pro Bono Program

by Drucilla Stender Ramey

The Bar Association of San Francisco (BASF) has operated a formal pro bono project since 1978. What we first saw as a public service to the public has since emerged as one of our most important, and popular, member services as well. Pro bono is definitely a two-way street.

In the late 1970s, it became apparent to Larry Long, the Director of the BASF Lawyer Referral Service, that our informal system of providing pro bono legal services to the poor had great untapped potential. He recognized the popularity of the system with those attorneys who received no-fee referrals from the LRS in addition to their fee generating cases. The volunteers felt good about the pro bono work they were performing, due in large part to the success of the LRS in screening and referring applicants for service. Instead of their "public service" contribution consisting of services rendered for clients who subsequently decided not to pay, the attorneys were representing clients who had a demonstrated financial need for free assistance, and whose problem matched the attorney's legal skills.

BASF then applied for and received funding as a Legal Services Corporation Delivery Systems Study project. After a trial period, the project was selected for continued funding by the Legal Services Corporation.

The experiment conducted under the auspices of the Legal Services Corporation revealed what many bar associations have since come to learn: *pro bono works*.

BASF itself began to embark on a policy of financial commitment of its own resources to the provision of quality legal services to the poor. By 1986, the Association had planned to devote almost \$50,000 of its general revenues and \$92,000 in voluntary member contributions to the program. It is our experience that even a minimal financial commitment of a few thousand dollars can be stretched into the makings of a first class program. Moreover, a dues "check-off" program can yield surprising results and get any program up and running at minimal expense and hassle to the organization. A bar association pro bono project, operated by or in close conjunction with a local legal services program, helps provide badly-needed legal services to the poor. Even under the highest levels of funding provided by the Legal Services Corporation, it has been estimated that only 25 to 30 percent of the legal needs of the poor were being met. Since cutbacks in federal funding have occurred, this percentage has of



Photo courtesy of Mari Kane. Triad Photography group.

Drucilla Stender Ramey, Executive Director of the Bar Association of San Francisco

course diminished. Around the country, bar associations have joined in a close partnership with the Legal Services Corporation funded staff attorney programs to help fill the gap in services, and in many cases to serve many more clients than was possible before the joint ventures began.

As a bar administrator, there is an equally important reason to develop and institutionalize a pro bono project. Not only does the project help better service the client community; your pro bono project can become an important institution in the legal community as well.

In San Francisco, hundreds of lawyers have been provided with the opportunity to receive free training and supervision while providing badly-needed legal services to the poor. Our pro bono training clinics have enabled many attorneys new to the practice of law to take their first steps as practicing lawyers under the close supervision of an expert attorney in the field. This "buddy system" is remembered by many successful attorneys as their first contact with the bar association, one that is remembered fondly and with great respect. Because the work is conducted under the auspices of the bar itself, these neophyte attorneys of course go on to become involved in many other association activities. Many past presidents and committee and section chairs have all participated in pro bono work. It is a particularly good way to involve those new to the practice of law who might otherwise not see the wisdom of joining a voluntary local bar.

(continued on next page)

As a membership benefit, the pro bono project does more than provide a responsible and efficient manner for a new attorney to handle cases for poor clients. A well-organized pro bono program can offer experienced practitioners an easy way to efficiently donate their services in an effective manner. Careful client screening and case prioritization ensure that the most needy clients are served in a particular community. Free practice manuals and practice forms can be of assistance to the seasoned practitioner as well as the neophyte. Inexpensive malpractice insurance coverage can also provide a volunteer with an important resource not otherwise available when taking on pro bono cases as an individual practitioner.

Pro bono service through an institutionalized bar program can also be a valuable way for large law firms and corporations to obtain training and experience for their attorneys and paralegals while serving the community. Handling cases under the supervision of experienced attorneys provides a way for those new to the organization to become familiar with the practice of law, often at a more accelerated pace than is practical under the current situation of courtroom backlogs and extended settlement procedures. Experienced attorneys in those institutions find that pro bono work is a refreshing change from their day-to-day practice and offers an opportunity to help an individual rather than an institutional client.

Finally, the institutionalization of a formal pro bono project within your bar association will be greatly appreciated by your local judiciary. In San Francisco, the BASF is often praised in a variety of different contexts by members of the local bench for our ability to provide counsel to those who deserve but cannot pay for legal representation. The Volunteer Legal Services Program of BASF has a close working relationship with local judges. The court knows it has a place to call when a *pro se* litigant is in need of assistance. In turn, the VLSP is always able to obtain a necessary continuance to accommodate volunteer attorney's needs. The bench is always ready to participate in training seminars or otherwise provide special benefits to those involved with the pro bono project. Relationships developed with the court through pro bono participation will benefit attorneys throughout their careers.

Pro bono works. I urge all bar leaders to give it a try. The Bar Association of San Francisco Volunteer Legal Services Program stands ready to assist any other association by sharing the benefit of our experience. Please do not hesitate to contact us in developing your own program, large or small.

Drucilla Stender Ramey is the Executive Director of the Bar Association of San Francisco.

Other Avenues for Pro Bono Dedication

by J. Chrys Dougherty and Jarilyn Dupont

Unless there are attorneys willing to handle individual clients, a private bar involvement program will not succeed. The work involved, however, is not limited to case work. Some attorneys may balk at case work or litigation, but still can provide strong pro bono resource support for those unable to afford the cost of legal services. In addition to the front-line attorneys willing to handle a day-to-day case load, many others are needed to assist with recruitment, training, fundraising and to act as mentors and advisors. All these activities are essential to the pro bono effort. The intricacies of using attorneys for these functions may seem insuperable, but with some thought, the effort can succeed and *all* lawyers can participate.

Recruitment/Fundraising

Lawyers can provide a pro bono program with the impetus needed in a recruitment drive for pro bono attorneys. Those attorneys who choose not to handle cases usually can give time for several night meetings to help increase participation in a local program. Attorneys can be a part of a "pro bono telethon" to call lawyers personally known to them and "persuade" them to add their names to pro bono panels. Personal visits can be made over lunch with senior partners to ensure their firm's active support. Prominent attorneys who do pro bono work and others such as local bar presidents or directors, can use their influence and visibility to promote pro bono work at all levels.

Prominent attorneys . . . can use their influence and visibility to promote pro bono

One lawyer convinced of the needs of the indigent is the best person to explain that need and get others to join in the effort. The same principles apply to fundraising. Such a lawyer can provide personal introductions and identify key funding sources which may ensure a program's financial stability. The time spent *can* translate into money which in turn serves the poor directly.

Training

An integral part of any successful law practice is continuing legal training received by the lawyers. Quality legal representation mandates training. The need is all the more



evident when a lawyer practicing in airline reorganization is prompted to switch to poverty law. The limited resources of local private bar involvement programs necessitate the use of lawyers already knowledgeable in a given area to provide experience and expertise in a training session for those facing new problems for the first time. Certified specialists can give time to be a speaker or trainer. Although the private bar may not have many poverty law experts readily available, there are always trial experts, family law specialists, administrative lawyers, and experts in other fields of law who can help with poor people's legal difficulties in an efficient, less expensive way. This expertise can, and for maximum economy of lawyer time and effort should, be thus transferred to those attorneys able to do the day-to-day case work. Lawyer trainers can come not only from law firms but from law schools, city, county, state and federal governmental agencies, and corporations.

Mentors, Resource Attorneys, Community Education

One of the most rewarding aspects about practice in the community in which a lawyer lives is the continuing development of the inter-lawyer relationships. Usually fostered most strongly within a firm, these relationships may also form most satisfyingly when lawyers act as mentors or resource attorneys for other lawyers.

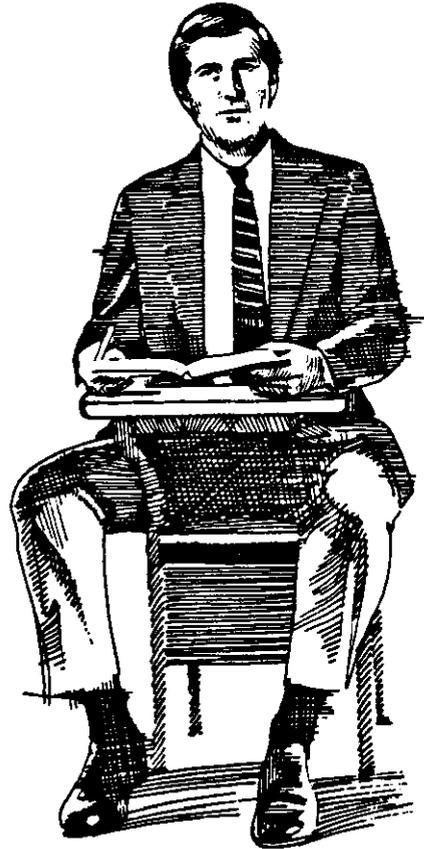
(Continued on page 10)

Pro Bono Dedication

(Continued from page 9)

The older, more experienced attorney makes himself or herself available for the benefit of the lawyer newly called on to handle a pro bono or legal services case. The relationship provides the young lawyer an opportunity not only to seek the advice of the older attorney in all matters connected with the case but also to gain the benefit of experience in the practical, everyday problems of managing time and caseload. Lawyers convinced of the needs of poor people can provide sole practitioners, small firm lawyers, government attorneys, and legal services lawyers with a mentor service. Thus an experienced and inexperienced attorney can be paired to discuss issues, strategies and problems.

A comparable pro bono service would be where a firm which does a large amount of appellate work or is highly specialized in some area of law agrees to act as a resource for the pro bono or staff attorneys who get beyond their depth or capacity in time or training. The willingness to



trainers can come from . . . law schools, city, county, state and federal governmental agencies, and corporations

return a phone call and participate in a conference is all that is needed for that firm to render a significant service in the pro bono effort.

Community education is a further pro bono activity many lawyers probably do more often than they realize. Law-related talks to local professional groups, church groups or schools are a form of community education. One aspect of providing legal assistance to the poor is to practice "preventative law." For example, there may be a tax attorney with a handicapped child and thus familiar with the legal issues surrounding the care of these children who would be willing to share his knowledge to help others in similar situations. Speeches on many useful areas of law can be arranged for low-income groups, senior citizen centers and battered women's shelters. The possibilities are limitless and adaptable to any schedule, even that of a busy or "overworked" lawyer.

Governance

A final supportive alternative to pro bono case work is participation on a board or advisory committee which

may be the governing body of the local or state private bar involvement program. Even though a staff director runs the day-to-day operation of intake and case assignment, the governing board must help in supervising the entire program and with overall policy decisions.

Conclusion

No lawyer should assume that there is no job or task for him or her to perform. The attorney in a specialized field may appear to be practicing law at first glance irrelevant to the needs or concerns of indigent clients, but the skills possessed by that lawyer may be transferable to other aspects of pro bono program than that of case work and so directly support that total effort. Every lawyer can be brought to understand the scope of the need for legal services. Once informed, the vast majority will respond to their professional responsibility in providing legal services to those who otherwise would be denied them. This avenue of pro bono dedication is wide open. ■

J. Chrys Dougherty is a member of the ABA Standing Committee on Lawyer's Public Service Responsibility. Jarilyn Dupont is Executive Director of Texas Lawyers Care.

8

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PRIVATE ATTORNEY INVOLVEMENT
IN
LEGAL SERVICES TO THE POOR
March, 1987

- I. Historical Background: Pg. 1
- II. General Information: Pg. 3
- III. Implementing and Operating Pro Bono Programs and Pro Bono Components: Pg. 13
- IV. Contracting with Private Attorneys: Pg. 16
- V. Implementing and Operating Judicare Programs and Judicare Components: Pg. 17
- VI. Corporate Law Department Involvement: Pg. 20
- VII. Law Firm Involvement: Pg. 22
- VIII. Government Attorney Involvement: Pg. 23
- IX. Lawyer Referral and Information Services: Pg. 24
- X. Interest on Lawyers' Trust Account (IOLTA) Programs: Pg. 25
- XI. Mandatory Public Service: Pg. 26
- XII. Fundraising: Pg. 31

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Article examines the justifications normally advanced for the provision of free legal aid to the indigent. Author argues that every citizen has the right of access to the courts because they are the only state-sanctioned dispute resolution mechanism. Discusses the implications of this theory of access rights.

Christensen, Barlow F., "The Lawyer's Pro Bono Publico Responsibility", 1981 American Bar Foundation Research Journal.

Article briefly reviews the ABA's role in promoting the concept of a lawyer's pro bono publico responsibility. Examines the traditional view of a lawyer's voluntary public service responsibility. Concludes that mandatory pro bono service is the only way that the lawyers' professional obligations will be met.

Curran, Barbara A., "The Legal Needs of the Public - The Final Report of a National Survey", American Bar Foundation, (1977).

The report presents the results of a national survey conducted to elicit information about the legal problems encountered by the public, the ways in which those problems are dealt with, client experiences with lawyers, and opinions and perceptions about lawyers and their work.

Dougherty, J. Chrys, "The Private Bar and Support Centers: Mutual Need, Mutual Aid", 39 NLADA Briefcase, 30-31 (Fall, 1982).

The Chair of the ABA's Special Committee on Lawyers' Public Service Responsibility describes ways in which legal services support centers and private attorneys mutually benefit by working together to serve the needs of poor people.

Failinfer, Marie A., May, Larry, "Litigating Against Poverty: Legal Services and Group Representation", 45 Ohio State Law Journal 1-56 (1984).

Authors evaluate the objections of equal access advocates in order to see if these objections justify LSC restrictions. Authors contest Marshall Breger's contention that access rights are different from and more important than welfare rights. Authors also contest the conclusion that that a concern for rights prohibits the consideration of group impact in decisions about which clients obtain legal assistance. The authors also discuss the arugument that prohibiting LSC lawyers from serving group interests poses no ethical problems.

Ferren, Hon. John M., "The Lawyer's Professional Responsibility to the Legal System", 55 Wisconsin Bar Bulletin, 10-12 (September, 1982).

An associate judge of the District of Columbia Court of Appeals presents the major reasons why lawyers have a "pro bono" responsibility to their profession.

Goodman, Leonard H., "Researching the Legal Needs of the Poor: A Status Report", National Social Science and Law Center, 1825 Connecticut Ave., N.W., Suite 401, Washington D.C., 20009 (June 1980).

Discusses the merits of studies that have examined the legal needs of the poor focusing on the 1974 ABA/ABF study authored by Barbara Curran. Examines the research design problems inherent in a national scope study to re-investigate the scope of need for legal services.

Halprin, Stanley, A., Jr. "Involvement of Private Attorneys in High Efficiency Litigation on Behalf of the Poor", Legal Services Corporation, Delivery Research Unit, (February, 1982).

A legal services litigation training expert examines the appropriateness of private attorney participation in impact work by discussing tangible and intangible incentives, motivations, and the critical need for coordination and financial and technical assistance from legal services programs.

Harris, Robert L., "The Private Bar's Involvement in the Delivery of Legal Services: The Role of the Black Lawyer", 37 NLADA Briefcase, 86-87 (November 1980).

A former President of the National Bar Association discusses the historical and current role of black lawyers as providers of legal services to the poor.

Harrell, Morris, "The Continuing Need for Private Bar Involvement in the Delivery of Legal Services to the Poor", 17 Clearinghouse Review, 227-228 (1983).

This paper addresses the need for lawyers in private practice to participate in pro bono programs and the ABA's goals to that end.

Herald, Sara B., "Volunteer Child Advocates - Guardians Ad Litem", Florida Bar Journal, Vol. LIX No. 11: 57-60, (Dec. 1985).

Explains what a guardian ad litem program is. Details how Florida has developed a guardian ad litem program and how the Dade County program was developed. Also explains how the two programs are different in their use of volunteers and attorneys.

Houseman, Alan W., "Community Group Action: Legal Services, Poor People and Community Groups", Clearinghouse Review, Special Edition, 392-402, (Summer 1985).

Article explores the relationships between legal advocates and community groups in light of today's realities of legal services practice, the changing nature of poverty law, and the political context in which legal services and federally funded advocacy exists.

Janes, Norman K., "The Role of Legal Services Programs in Establishing and Operating Mediation Programs for Poor People", 18 Clearinghouse Review, 520 (Oct. 1984).

The author addresses the advantages and disadvantages of an "in-house" mediation program, which is operated through a legal services office.

Lardent, Esther F., "Watch It! Potential Burnout Ahead", 2 PBI Activation Exchange, 7-9 (June 1984).

Describes the inevitable pitfalls which often create private attorney coordinator burnout. Also gives helpful advice on how to avoid or overcome the problem of burnout.

Lardent, Esther F. and Coven, Ina M., "Quality Control in Private Bar Programs for the Elderly", ABA Commission on Legal Problems of the Elderly, December 1981, (available from the American Bar Association).

An examination of quality control mechanisms that have been successfully incorporated into private bar delivery systems for the elderly: pro bono panels, judicare, and reduced fee lawyer referral services. The sections on training, centralized intake procedures, technical assistance, case monitoring, client feedback/grievance procedures, and attorney recruitment have broad applicability to all private attorney delivery systems.

Legal Services Corporation, "An Analysis of Information Available About the Private Attorney Initiative", Report prepared by Marjorie Anne McDiarmid, Regional Director, Northern Virginia Regional Office, March 4, 1985.

Analyses Case Service Report(CSR) data on private attorney case statistics for late 1983 and early 1984. Discusses the trends in quantity and type of cases handled.

Legal Services Corporation, Information Unit of the Office of Information Management, "Characteristics of Field Programs Supported By the Legal Services Corporation; Start of 1983, A Fact Book" (February, 1983).

A collection of statistics gathered by the Legal Services Corporation. The information focuses upon funding, the number of programs, distribution of resources, client characteristics, closed cases, salaries, and affirmative action data.

Legal Services Corporation, "The Delivery Systems Study: A Policy Report to the Congress and the President of the United States", (June, 1980). For a quick summary of the Study's findings, see Leona Vogt, "The Delivery Systems Study and the Role of the Private Bar" 37 NLADA Briefcase, 88-89 (November, 1980).

This report presents the findings of the Delivery Systems Study's eight private attorney models: pure judicare, judicare with a staff attorney component, judicare supplement to a staff attorney program, contracts with law firms, prepaid legal insurance, legal clinics, organized pro bono and voucher. This four-year study of 38 demonstration projects tested the design, performance, feasibility and viability of private bar models for the delivery of publicly-funded legal services.

Legal Services Corporation, Delivery Research Unit, "Research Notes on Private Bar Service Delivery", (June 1981).

There are four research notes in this series:

1. "Types of Cases Handled by Programs Using Private Attorneys" is an analysis of how the design of intake system affects the nature and scope of legal services provided to clients. The data, as reported in this note, provide some evidence that private bar programs with staff intake systems handled a higher proportion of poverty law cases than programs with decentralized intake systems.
2. "Choice of Arrangements For Paying Private Attorneys" summarizes the Delivery Systems Study experience with four types of payment arrangements. Cost and management implications of each are discussed.
3. "Program Resources Allocated to Divorces in Legal Services Programs Utilizing Private Attorneys."
4. "Ensuring High Quality Services in Legal Services Programs" points out desirable staff characteristics as well as quality control procedures. Legal Services Corporation, Delivery Research Unit, "Retrenchment: Adjusting to Change in the Legal Services Community", (June, 1982).

A collection of 24 papers designed to address the range of problems encountered by local legal services programs in assessing their program's future operations. Covers management of the retrenchment process both from an organizational and personal perspective, alternative funding sources, and program redesign.

Martin, James P., "Private Attorney Involvement in Rural Legal Services Delivery", Legal Services Corporation, Delivery Research Unit, October 1982. Also appears in the 17 Clearinghouse Review, 260-264 (1983).

This is an analysis of the possibilities and problems inherent in rural private attorney involvement, based on actual field experiences in dealing with rural systems issues.

McGinnis, Harold K., "Pro Bono In Florida: Contributions From Private Practitioners" 14 Stetson Law Review, 310-337 (1985).

The results from a Florida Bar Membership Attitude Survey. Results showed that attorneys donated more than 500,000 hours of pro bono services during 1983.

Meeker, James W., Dombink, John, and Schumann, Edward, "Legal Needs of the Poor: Problems, Priorities and Attitudes" 7 Law and Policy 225-247 (April 1985).

Authors examine the legal needs assessment assumptions underlying the preparation of LSC annual reports. The study examines these assumptions in light of an analysis of perceived problems, help seeking behavior, attitudes toward the allocation of legal services resources, and how these have changed over time for eligible client population of one legal service program in California.

Menkel-Meadow, Carrie, "Nonprofessional Advocacy: The "Paralegalization" of Legal Services for the Poor" Clearinghouse Review, Special Issue, Summer 1985, 403-411.

Article examines the particular strengths and weaknesses of both professional and nonprofessional advocacy.

"Minnesota Students Match Up With Pro Bono Lawyers", 3 PBI Activation Exchange, 1 (March 1985).

Details the inception of the Minnesota Justice Foundation and how this organization has used law students to provide legal services to the poor.

National Legal Aid & Defender Association (NLADA), "Perspectives: Legal Services and the Private Bar: 1982 and Beyond", (February, 1982).

A special report incorporating speeches from NLADA's December 1981 Annual Conference. Includes remarks by the presidents of the American and National Bar Associations, a state bar association president, a legal services program director, the chairman of the Legal Services Corporation's board of directors, and the executive director of the National Clients Council.

O'Connor, Theron P., "LSC Instruction on Private Attorney Involvement", 17 Clearinghouse Review, 260-264 (1983).

An introduction to the Corporation's first Private Attorney Involvement Instruction followed by the Instruction text.

Paine, Kay H., "Stretching Resources for Legal Services: Non-Traditional Approaches in Two Settings", Legal Services Corporation, Delivery Research Unit. (July, 1981).

Paine, former director of a legal services project, describes unique features of two successful rural delivery programs. Characteristics include decentralized service delivery and administration, extensive use of non-attorney volunteers and reduction of overhead by creatively using community resources.

Read, Winona T., "An Overview of Private Bar Delivery Systems", Legal Services Corporation, Delivery Research Unit. (January, 1982).

Read, a former legal services staff attorney and consultant to the Corporation and a wide variety of programs, gives a summary analysis of private bar delivery methods: *judicare*, contracts, *pro bono*, revolving litigation funds, and lawyer referral and information services.

Reskin, Lauren Rubenstein, "Lawyers Fall Short of Self-Imposed Pro Bono Standards", 71 ABA Journal 42, (November 1985).

This poll examines the percentage of attorneys who feel an obligation to do *pro bono* work and the percentage of attorneys who actually do *pro bono* work.

Rust, Mark E., "What Pro Bono Can't Do", 13 Student Lawyer, 25 (May 1985).

Analyzes the issue of how the budget cuts to the Legal Services Corporation has transformed the delivery of legal services to the poor. Begins with the premise that poverty law demands special skills and that volunteer lawyers may not have these special skills.

Shuster, Michael R., "Private Attorney Involvement: Training and Support", 17 Clearinghouse Review, 243-246 (1983).

This paper discusses how private attorney projects can provide training and support to their panel attorneys using local, state, and national resources.

Singsen, Gerry, "How to Count to Ten (Percent)", 17 Clearinghouse Review, 204-212 (1983).

This article details ways in which programs can develop and maintain specific accounting procedures to comply with the LSC 10 percent private attorney involvement instruction.

Tanaka, Winona and Tull, John, "Private Attorney Involvement in Legal Services: From The Client's Perspective" Report prepared for the Region Six Chapter of the National Clients Council, Inc. and the Southeast Training Center (January, 1986). Available from the American Bar Association.

Manual describing the special concerns of clients and the measures that clients can take to protect their interests in the context of PAI. Designed for use in training sessions for clients, for staff and board members of legal services programs, and for participating private attorneys and bar leaders.

Smith, Ken, "The 1982 Private Attorney Involvement Effort: A Status Report", Legal Services Corporation, Delivery Research Unit, (March, 1983). Also appears in the 17 Clearinghouse Review, 183-189 (1983).

This is a preliminary analysis of 1982 efforts to expand private attorney involvement nationwide in delivering services to poor people. It discusses local efforts by legal services programs, the growth of mixed delivery models, statewide pro bono projects, organized bar participation, and the services being provided to clients by private attorneys.

Smith, Ken, "Private Attorney Involvement: An Assessment of the 1982-83 Ten Percent Requirement", National Legal Aid and Defender Association, (January 31, 1984).

Report expands upon a previous study conducted by the same author. Evaluates the benefits produced by the 10% policy and the problems encountered. Author concludes that the policy's effect made remarkable progress in expanding both the extent and quality of participation by the private bar. Author also concludes the 10% requirement had negative consequences as an intrusion into control that hampered local level flexibility.

Smith, Wm. Reece, Jr., "From Where I Sit", 37 NLADA Briefcase, 82-83 (November, 1980).

A Past President of the American Bar Association comments on the necessity for greatly increased supplemental pro bono assistance by the private bar to legal services programs.

Smith, Wm. Reece, Jr., "Private Bar Involvement in Legal Services To The Poor", Florida Bar Journal, Vol. LIX, No. 11: 12-15 (December 1985).

Discusses the renewal of pro bono publico obligation within today's legal community. Also emphasizes the need for the private bar to augment Legal Service programs.

Smith, Wm. Reece Jr., "Crisis Or Opportunity? - Civil Legal Services For The Poor", Remarks at Southeast Regional Private Bar/ Legal Services Conference, (December 10, 1981).

Discusses the need for cooperation between the private bar and the Legal Services Corporation. Details that the cooperation must begin at the local level, then progress to the state and national level. Concludes that it is only through the cooperation of these two groups that the poor will still have access to necessary legal services.

Smith, Wm. Reece Jr., "Pro Bono and the Private Bar", Speech to the Travis County Bar Association and the Austin Young Lawyers Association, (September 10, 1981).

Explains the different philosophies that surround the controversy about the best method to deliver legal services to the poor. Concludes that the American Bar Association and the private bar have a vested interest in defending and supporting the Legal Services Corporation.

Veney, Bernard A., "The Private Bar and the Poor: A Client Perspective", 37 NLADA Briefcase, 92-96 (November, 1980).

The National Clients Council's Executive Director discusses the implications of private attorney involvement for the consumers of legal services.

Washington Council of Lawyers. "Report on the Status of Legal Services for the Poor", (November, 1983) (available from the American Bar Association).

Reports the results of a 1983 survey of LSC field programs that studied the impact of the 25% federal funding reduction. Report concludes that the impact of the reductions is substantial, that the reduction in services has not been made up by private bar involvement in the delivery of services, and that hundreds of thousands of poor people have been denied access to legal services because of the funding reductions.

Wolock, Rosemary Kozielski, "Defunding Legal Services: A Disservice To The Poor", Detroit College of Law Review, 1501-1508 (Winter 1983).

The author examines the effects of President Reagan's funding cuts to the Legal Services Corporation. Concludes that these cuts have caused the elimination of areas of law which are necessary to the poor and which were traditionally handled by the Legal Service offices rather than the private bar.

III. Implementing and Operating Pro Bono Programs and Pro Bono Components

American Bar Association, Young Lawyers Division, "Opening the Door for Pro Bono", (April, 1980) (available from the American Bar Association).

A handbook written for bar associations that provides a quick chronological overview of the steps involved in starting and implementing a pro bono program.

American Bar Association, "The Resource: A Pro Bono Manual", Special Committee on Lawyers' Public Service Responsibility and the Private Bar Involvement Project, (1983) (available for \$8.00 from the American Bar Association).

A 230-page manual that includes information on recruiting and retaining volunteers, intake and screening, case referral, and training. Illustrated by forms and materials from successful programs throughout the country.

Hoidal, Thomas, "Volunteer Lawyers Program Quality Control Systems", 17 Clearinghouse Review, 565-567 (October, 1983).

The director of a pro bono program describes his program's quality control system. The article contains an introduction by Esther F. Lardent, Director of the Boston Bar Association's Volunteer Lawyers Program.

Lardent, Esther F., Gawryl, Janine; Moore, Wayne; Schmitt, Ruth Ann; Tyrrell, Jayne; Wildau, Susan, "Materials for the Pro Bono Skills Workshop", Legal Services Corporation, (May 28-30, 1981; Albuquerque, New Mexico).

A manual on most aspects of pro bono delivery. There are nine sections on topics such as recruitment, outreach and community education, intake and screening, recordkeeping, and quality control. Each section includes practical advice on "how to" and "why."

Legal Services Corporation, Delivery Research Unit, "Follow-up Pro Bono Skills Workshop Materials", (November 19-21, 1981; Chicago, Illinois).

Sample forms, letters, and brochures used by the pro bono projects funded by the Legal Services Corporation and the American Bar Association (Pro Bono Activation Project and Young Lawyers Division) in 1981.

Legal Services Corporation, Quality Improvement Project, "Final Evaluation Report/Private Bar Involvement", (September, 1981).

This report includes a section on the Emeritus Attorney Program that tested the feasibility of utilizing retired or semi-retired attorneys as a pro bono resource for legal services programs. A very frank discussion of problems that arose. (The report notes that there are legal services programs outside of the QUIP demonstration projects which have effectively used volunteer retired attorneys).

Legal Services Corporation, "Volunteer Lawyers for the Poor: A Guide to Model Action Programs", (April, 1980).

A compilation of information on successful pro bono programs by model type, with overviews on recruitment of volunteer attorneys, training, administration and funding.

Lester, V. Markham, "The Pros of Pro Bono", 2 The Compleat Lawyer 22-25 (Winter 1985).

Overview of the pragmatic reasons why it is beneficial to a private attorneys practice to participate in an organized pro bono program.

Messer, Susan, "Pro Bono Referral System - The First Six Months", 17 Clearinghouse Review, 265-267 (1983).

This article outlines some of the questions and problems encountered by one legal services program during its effort to set up a pro bono referral system for family law.

Messer Susan, "Private Attorney Involvement - Three Years Later", 19 Clearinghouse Review, 864-872 (December 1985).

Details the growth of the Legal Services of Southeastern Michigan. This pro bono referral project began in response to the requirement that LSC grantees make 12.5% of their budgets available for private attorney involvement. This program has had to change some of its methods, but has kept the same principle behind its operation since it was first discussed in Clearinghouse Review.

Moore, Wayne, "How a Pro Bono Project Can Improve the Productivity and Morale of Your Staff Attorney Program", Clearinghouse Review Special Issue on Private Attorney Involvement, Summer 1983.

This article briefly discusses: fundraising potential, caseload control refinement; implementation of quality control, staff development, increase in complex litigation capacity, reduction in outreach costs, and priority setting.

North, Robert W., "Project Director Selection: Monitoring and Appraisal Guide", National Legal Aid and Defender Association Management Project.

Covers preparing the board, selecting and setting priorities for desired director characteristics, advertising, screening resumes, reference checking, interviewing, contracting, and monitoring and appraisal of performance. Contains worksheets and sample forms for all areas.

Poore, Nancy D., "Why CLE In PBI?", 1 PBI Activation Exchange, Insert (Summer 1983).

Proposes that offering CLE courses may attract attorneys to participate in pro bono programs.

Schulzinger, Rhoda and Smith, Ken, "Pro Bono on a Small Scale: Lessons from the 1981 Demonstration Projects", Legal Services Corporation, Delivery Research Unit, (January, 1982).

Information from the LSC/ABA pro bono demonstration projects regarding the operation of projects added on to staff programs; the role of a pro bono coordinator; quality control in small projects; and training/case assistance.

State Bar of California, Voluntary Legal Services Program, "The Pro Bono Tool Box: A Nuts and Bolts Approach to Program Development", (1980).

A "how-to" manual designed to help Californians develop pro bono programs. Forms included are specific only to California, but general information can be applied elsewhere.

Thomas, Elizabeth, "Self-Help Plus: A Pro Bono Program for Pro Se Family Law", 17 Clearinghouse Review, 247-256 (1983).

This is a detailed description of the development and implementation of a project that enables low-income persons to conduct their own uncontested divorces with the help of volunteer attorneys. Vogt, Leona and Read, Winona, "Quality Control in Pro Bono and Judicare Programs", Legal Services Corporation, Delivery Research Unit, (January, 1981).

A summary of quality control systems adopted by the pro bono and judicare projects funded under the Delivery Systems Study.

IV. Contracting With Private Attorneys

Legal Services Corporation, Quality Improvement Project, "Final Evaluation Report/Demonstration Project/Private Bar Involvement", (September, 1981).

The final report summarizes the experiences of the Charleston and Greenville, South Carolina demonstration projects.

Messer, Susan, "Legal Aid Society - Cincinnati" 18 Clearinghouse Review, 104 (May 1984)

The author presents an in-depth profile of one legal aid society. She details the planning, structure, and accountability of a successful legal aid office.

Ramsaur, Jimmie Lynn, "Contract Attorney Program", Legal Services Corporation, Delivery Research Unit, (April, 1981).

Ramsaur, the managing attorney of the Contract Attorney Program of Legal Services of Middle Tennessee, Inc., describes the operations of a contracts system begun in 1976 under the Delivery Systems Study. This paper provides a historical perspective on the programs development.

Read, Winona T., "Contracting with Private Attorneys - Applications and Suggestions for Legal Services Programs", Legal Services Corporation, Delivery Research Unit, (September, 1981). Also appears in 38 NLADA Briefcase, 93-97 (Winter, 1981).

Read presents the details of designing and operating contract systems for different purposes, drawing on a variety of sources including the Delivery Systems Study, the Quality Improvement Project, interviews with legal services staff members and her own consulting experience.

Romero, Joe Louie, "Contracts With the Private Attorney - Pros and Cons", Legal Services Corporation, Delivery Research Unit, (April, 1981).

Romero describes and compares the operations of two contract systems that he worked with at Colorado Rural Legal Services and Western Nebraska Legal Services.

V. Implementing and Operating Judicare Programs and Judicare Components

Bieri, Brian L., "Billing and Accounting Systems Utilized by Wisconsin Judicare", Legal Services Corporation, Delivery Research Unit, (April, 1981).

Bieri, the program's Director of Administration, describes the billing and accounting systems that are used to accomodate approximately 7,000 new cases annually.

Dooley, John A., "Legal Services For The Poor: The Debate Between Staffed Programs and Judicare", 17 Clearinghouse Review, 193-203 (1983).

Reviews the history of the "judicare vs. staff" debate and the issues that have been central to it. Also extracts the positive elements of each system for the development of new programs.

Martin, James P., "Judicare: One Component of a Diversified Delivery System", 15 Clearinghouse Review (October, 1981).

The Director of the West Virginia Legal Services Plan describes the operations of its judicare supplement to the staff attorney program. Martin describes and analyzes case referral and processing systems, quality control procedures and general strengths and weaknesses of the system.

Martin, James P. "Why You Need An Encumbrance System", 2 PBI Activation Exchange, 8-9 (March, 1984).

Explains the need for an encumbrance system. This system will not only help meet the LSC 12.5% requirements but will also guarantee that necessary funds will be available for depositions, filing fees, and attorneys' fees in compensated programs.

Martin, James P., "Quality Control in the Judicare Component of the West Virginia Legal Services Plan, Inc", Legal Services Corporation, Delivery Research Unit, (April, 1981).

Martin offers a summary analysis of the effectiveness, shortcomings and benefits of quality control procedures used by the judicare component.

Potack, Gene M., "Intake and Case Assignment Systems Utilized by Wisconsin Judicare", Legal Services Corporation, Delivery Research Unit, (April, 1981).

Potack, executive director of Wisconsin Judicare, describes the program's intake and case assignment systems, which are decentralized and involve a network of 101 "intake offices" located throughout a 33 county area.

Powers, Lonnie A., "Intake and Case Assignment Systems Used by Legal Services of Arkansas", Legal Services Corporation, Delivery Research Unit, (April, 1981).

Powers describes the centralized intake system used in the judicare supplement to the staff attorney program.

Powers, Lonnie A., "Judicare Delivery Systems", Legal Services Corporation, Delivery Research Unit, (January, 1982).

An overview of judicare delivery systems: designing the five crucial components, getting started, integrating judicare attorneys, and the staff program.

Saltzman, Andrea J., "Private Bar Delivery of Civil Legal Services To The Poor: A Design For A Combined Private Attorney and Staffed Office Delivery System", 34 Hastings Law Journal, 1165-1206 (March-July 1983).

Describes the debate between judicare and staff attorney proponents. Also proposes a hybrid delivery system, combining elements of each delivery system.

Sutton, Dean L., "Billing and Accounting Procedures Used by the Judicare Program in Henry/Mercer Counties, Illinois by Prairie State Legal Services", Legal Services Corporation, (April, 1981).

Sutton is a managing attorney in a staff program which has a small judicare component for two counties. He describes relatively simple procedures that can be adopted for billing and accounting in a smaller judicare system.

Swanson, Ann W., "Series of Interviews on Judicare", 37 NLADA Briefcase, 97-114 (November, 1980).

Former LSC Chicago Regional Director Theron P. O'Connor discusses the advantages and drawbacks in judicare systems, citing quality control and conflicts of interest as potentially difficult areas; judicare project directors from two Minnesota programs, one covering 22 counties and another in one county, describe their systems; and a long-time legal services staff director who provided technical assistance to the two programs gives his perspective on judicare as a delivery method.

Vogt, Leona and Read, Winona, "Quality Control in Pro Bono and Judicare Programs", Legal Services Corporation, Delivery Research Unit, (January, 1981).

A summary of quality control systems adopted by the pro bono and judicare projects funded under the Delivery Systems Study.

VI. Corporate Law Department Involvement

American Bar Association, "Corporate Law Departments: Pro Bono Service", (April 26, 1984) (available from the American Bar Association).

Workshop reference materials geared to the New England area. Contains a localized directory of pro bono and public service programs and ABA and New England resources and referrals for pro bono service. Provides a detailed program for planning a corporate law department pro bono program and describes the various participation models in existence. Briefly discusses the need for training and covers the issues of professional insurance.

American Bar Association, "Corporate Law Departments: Pro Bono Service in Metropolitan Chicago", (October 9, 1984), (available from the American Bar Association).

Workshop reference materials that describe metropolitan Chicago area pro bono programs. Lists the Chicago area corporate law departments that currently participate in a program. Reprints several articles that highlight Chicago area pro bono and public service programs.

American Bar Association, "National Review of Corporate Law Department Pro Bono Programs", (August 5, 1984) (available from the American Bar Association, Washington for \$15).

This workshop reference manual provides an overall review of corporate law department participation in the United States. The manual covers planning stages necessary to develop a program, varying program participation models, ABA resources available, and a directory of existing corporate pro bono plans.

Burton, Nancy Noble and Stein, Leslie Reicin, "Florida Corporate Counsel Pro Bono Activities", Florida Bar Journal, Vol. LIX No. 11: 67-68, (Dec. 1985).

Lists the model programs developed by the Corporate Counsel Committee, which enable corporate attorneys to participate in pro bono programs. The programs focus on aiding the elderly, not-for profit corporations and participation in existing panel programs.

Campbell, John D., "Corporations Offer Justice For Poor: Company Lawyers Use Company Time To Defend Indigent" Democrat and Chronicle, Feb. 3, 1985, 6F.

Details the way some large corporations are establishing pro bono programs which let in-house lawyers use company time to represent poor people in court and at administrative hearings.

Middlebrook, Stephen B., "Corporate Law Departments: A Source of Pro Bono Publico Services", ABA Journal, August 1982, pages 924-25. Also appears in the 17 Clearinghouse Review, 257-259 (1983).

This article examines the development and implementation of a pro bono program in Hartford, Connecticut, sponsored by Aetna Life & Casualty's corporate law department.

Morris, Daniel A., "The Case for Corporate Pro Bono" Case & Comment, 30-38 (November-December 1986), reprinted in 4 Activation Exchange (Fall-Winter 1986).

Article explains the reasons why more corporate law departments should join in providing pro bono legal services needed by the poor.

Mullaney, Joseph E. and Sullivan, Katherine McG., "Making the Pro Bono Sale to Corporate Law Department Volunteers", 3 PBI Activation Exchange, 14-15 (March 1985).

Details, in a how-to manner, a method for recruiting more pro bono volunteers from corporate law departments.

Neiman, Tanya, "Corporate Counsel: Untapped Wealth of Talent", 3 PBI Activation Exchange 5(3) (September 1985).

Tanya Neiman, director of the Volunteer Legal Services Program of the Bar Association of San Francisco describes the establishment and operation of their corporate counsel program.

Tucker, Linda W., "Corporate Law Department Pro Bono Programs: Opportunities and Resources for North Carolina", (Workshop materials, September, 1984) (available from the American Bar Association).

Introduces North Carolina corporate law departments to the organized pro bono and public service field. Describes varying types of corporate pro bono participation and profiles the programs conducted by Carolina Power & Light Company and Duke Power Company. Contains directories of the state's volunteer lawyer programs and legal services field programs, and describes several existing corporate pro bono programs. Discusses program planning and identifies resources.

Wood, Erica and Love, Susan, "Corporate Lawyers Go Pro Bono", 70 ABA Journal, 74-77 (August, 1984).

Profiles the pro bono efforts of several corporate law departments. Outlines program benefits and how to plan a program.

VII. Law Firm Involvement

Abromowitz, David M., "Using Special Talents: Law Firm Pro Bono" 2 PBI Activation Exchange, 3-4 (June, 1984).

Author recounts the pro bono experiences of Goulston & Storrs, a mid-size Boston law firm.

American Bar Association, Section of Individual Rights and Responsibilities, "The Private Law Firm and Pro Bono Publico Programs", (1971).

Provides a broad introductory overview of prototypes for a private law firm pro bono program. Describes the limitations and positive features of each program type.

Berg, Randall C. Jr., "Making A 'Firm' Commitment", Florida Bar Journal, Vol. LIX No. 11:45-46. (Dec. 1985)

Discusses the benefits of pro bono to the law firm and the legal profession. Also gives some examples of law firm involvement in pro bono programs.

Granelli, James S., "The Pro Bono Work in One Medium-Size Firm", California Lawyer, 23-25 (May 1982).

Author recounts the pro bono experiences of Munger, Tolles & Rickerhauser.

Hogan & Hartson Community Services Department Staff, "Pro Bono Activity by Private Law Firms: The Hogan & Hartson Model", 37 NLADA Briefcase, 116-117 (November, 1980).

Partners and associates of a major Washington law firm discuss the purposes and advantages of formally institutionalizing a pro bono department within a firm.

Legal Services Corporation, Quality Improvement Project, "Final Evaluation Report/Pro Bono Resource Demonstration Project", (September, 1981).

This is a comprehensive analysis of the Boston and New York City pro bono demonstration projects that tested the feasibility of using law firms to provide resources and services other than direct client representation to legal services programs.

McHale, Elaine C., "The Law Firm Resources Project: Participation of Boston Firms in the Delivery of Legal Services", Boston Bar Journal 9-10 (May 1983).

Sketches the goals and features of the Boston program that coordinates law firm participation in pro bono services delivery.

VIII. Government Attorney Involvement

Carlson, Margaret, "ABA Supports Government Attorney Pro Bono", 2 FBI Activation Exchange, 22-23 (September, 1984).

Provides the 1984 ABA resolution concerning the ammendment of 18 U.S.C. Section 205. Discusses the report that supported the recommendation and reports the response from the U.S. Office of Government Ethics.

Clark, Mary, "Confessions from Night Clinic, or How a Government Lawyer Learned to Stop Worrying and Love Pro Bono", Florida Bar Journal, Vol. LIX No. 11: 63-65, (Dec. 1985).

Discusses the three basic impediments to the participation of government attorneys in pro bono programs. The article resolves these conflicts in favor of government attorneys active participation in pro bono programs.

Kasold, Bruce E., "Legal and Practical Impediments to Pro Bono Service by the Federal Attorney", 30 Federal Bar News and Journal 101-104 (February, 1983).

Details the statutory and regulatory bars to federal attorney participation in pro bono activities.

Schweigert, Colleen, "Government Attorneys & Pro Bono: It's Easier Than You Think", 3 PBI Activation Exchange 12-14 (July 1985).

Explains how she convinced the North Dakota legislature that government attorneys should be allowed to do pro bono work. The process involved finding the relevant statute, locating support, drafting an amendment, and getting it passed.

IX. Lawyer Referral and Information Services

American Bar Association, "Survey of Lawyer Referral and Information Services 1984".

The ABA Standing Committee on Lawyer Referral and Information Service surveyed LRS's and presents detailed information on the operations of 165 respondents. Data provided in this report includes attorney participation levels, staff size, use of speciality panels, budget and nature of financial support, grievance procedures, fee dispute procedures, etc.

Bricking, Dennis E., "A Report on the American Bar Association Sponsored Lawyer Referral and Information Service in Louisville, Kentucky and the Legal Aid Society, Inc.", Legal Services Corporation, Delivery Research Unit, (April, 1981).

The Director of the Legal Aid Society in Louisville discusses the creation of a LRIS and the issues faced by a legal services program in working with the private bar on such an endeavor.

Carlin, Paul, "LRS: A Vital Delivery System For Pro Bono" Bar Leader, 18 (May-June 1985).

Discusses lawyer referral services. The article concludes that LRS can benefit the pro bono program and the participating attorneys as well as the public.

Schulzinger, Rhoda, "Lawyer Referral and Information Service", Legal Services Corporation, Delivery Research Unit, (January, 1982).

An introductory description of LRIS and how it can serve as an effective vehicle for increased cooperation between local bar associations and legal services programs to serve low-income clients.

X. Interest on Lawyers' Trust Account (IOLTA) Programs

Berg, Randall C., Jr., "A Significant New Revenue Source for Legal Services Begins: Interest on Trust Accounts", 38 NLADA Briefcase, 100-106 (Winter, 1981).

This article introduces a potential funding source for legal services programs: the IOLTA. Lawyers place short-term or nominal client trust funds in NOW accounts, the interest from which is paid over to a nonprofit organization to provide revenue for public interest law projects.

Berg, Randall C. Jr., "IOLTA: New Funds for Pro Bono", 3 PBI Activation Exchange, 9-10 (July 1985).

Defines the IOLTA concept and explains how a number of states are using the funds to support pro bono programs.

England, Arthur J., Jr., "Transcription of an Oral Argument", Speech given at National Conference on Interest on Lawyers' Trust Account Programs, Tampa, Florida, January 21, 1983. Also appears in the 17 Clearinghouse Review, 215-220 (1983).

Former Florida Supreme Court Chief Justice England, in an imaginary "oral argument" discusses legal issues important to IOLTA programs.

Florida Justice Institute, "Interest on Lawyers' Trust Accounts Handbook", (January, 1983).

Handbook prepared for a national conference on Interest on Lawyers' Trust Accounts, current as of January 1983.

"Has IOLTA'S Time Arrived?", 70 ABA Journal 16-20 (January 1984).

Presents the opposing views of the IOLTA concept.

Matthews, Mary W. "IOLTA, Princess of Newfunda (Interest on Lawyers' Trust Accounts, Revisited)", 39 NLADA Briefcase, Fall 1982. Also appears in Florida Justice Institute, Interest on Lawyers' Trust Accounts Handbook, January 1983.

A look at IOLTA programs across the country.

Reaves, Lynne, "IOLTA is Helping Make up LSC Cuts", Bar Leader, 10-11 (November-December, 1984).

IOLTA programs have been instrumental in supplementing reduced federal funding to legal services programs.

Robertson, Jane E., "Hello, You're on the Air...Today's Topic is IOTA", Florida Bar Journal, Vol. LIX No. 11: 47-51, (Dec. 1985).

This is a talk show interview with a Florida Bar Foundation official. The article explains the principle behind interest on trust accounts and the services that IOTA monies fund.

Scannell, J. Gordon Jr., "Maine's IOLTA Proposal: A Source of Supplemental Funding for Legal Services", 34 Maine Law Review, 359-375 (Spring 1984).

Discusses the concept of interest on lawyers trust accounts as a valid source of funding for legal aid. Addresses whether IOLTA is constitutional, ethical and makes attorneys' public image appear favorable.

Current information on IOLTA is available from:

Debra Baxter, Director
ABA/IOLTA Clearinghouse
Division for Legal Services
American Bar Association
Chicago, Illinois 60611
(312) 988-5748

XI. Mandatory Public Service

"Attorneys Cannot Be Forced To Perform Pro Bono Services" 86 Daily Journal D.A.R. 213 (January 17, 1986).

The California Court of Appeals held that to compel an attorney to perform pro bono representation denies the attorney his equal protection of the law. The court discusses the issue of mandatory pro bono from the traditional view of compelled pro bono to the policy disadvantage of compelled altruism.

El Paso Bar Association, "Brief in Support of a Mandatory Program" Brief submitted to support mandatory pro bono in El Paso, (1984), (available from the American Bar Association).

An amicus curiae brief submitted to support the argument that mandatory representation by counsel in a civil case does not violate the rights granted by the U.S. Constitution.

Gilbert, Arthur and Gorenfield, William, "The Constitution Should Protect Everyone - Even Lawyers", 12 Pepperdine Law Review, 75-92 (December 1984).

The authors discuss the issue of mandatory attorney representation without compensation for defendants in civil cases. According to the authors, elements of this issue are: the need for requiring free legal services to defendants in civil cases, the equal protection rights of attorneys and the quality of compelled representation.

Green, Bruce Andrew, "Court Appointment of Attorneys in Civil Cases: The Constitutionality of Uncompensated Legal Assistance", 81 Columbia Law Review 366-390 (March, 1981).

This note outlines the constitutional challenges usually raised to compelled representation. The note further examines the court's power to compel gratuitous legal services. The author concludes that there is no constitutional bar to compelling attorneys to render uncompensated legal assistance.

Johnson Jr., Honorable Earl, "The Right to Counsel in Civil Cases: An International Perspective", 19 Loyola of Los Angeles Law Review 341-361 (December 1985).

Author discusses how other countries have dealt with the right to counsel in civil cases, both historically and in the present and relates that to the present-day U.S. considerations of the same question.

Luban, David, "A Workable Plan for Mandatory Pro Bono", 5:10-12 Report from the Center for Philosophy & Public Policy (Winter 1985).

Outlines a bar-managed mandatory pro bono plan that includes a "standardized" credit system for direct service delivery, exemption features, and a poverty law education plan.

Marin-Rosa, Carlos and Stepler, Chuck, "Orange County - Mandatory Pro Bono in a Voluntary Bar Association", Florida Bar Journal, Vol. LIX No. 11: 21-22. (Dec. 1985)

Discusses the Legal Aid Society of Orange County. In this program all member attorneys are required to accept two pro bono cases each year, however, the membership to the bar association is voluntary.

New York State Bar Association, Committee on Legal Aid. "Report on Assigned Counsel in Civil Cases" (1980) (available from the American Bar Association).

Committee on Legal Aid report that examined the authority of judges in New York to assign uncompensated counsel to represent the poor in civil cases. Report concludes that no change in the state's laws are required to implement an assigned counsel program.

Norlander, Gerald D., "Court Appointed Divorce Counsel for Poor Persons", New York State Bar Journal, 32-34 (April 1984).

Reviews the authority of judges in New York to assign uncompensated counsel to represent the poor in civil cases.

Rosenfeld, Steven B., "Mandatory Pro Bono: Historical and Constitutional Perspectives", 2 Cardozo Law Review, 255-297 (1981).

Article reviews the New York City Bar Association Special Committee 1980 report recommending mandatory public service. Also discussed are the report's historical antecedents and the often asserted constitutional impediments.

Shapiro, David L., "The Enigma of the Lawyer's Duty to Serve" 55 New York University Law Review, 735-792 (November 1980).

Author explores the history of public service requirements and examines constitutional, economic, and policy objections to the imposition of an enforceable service obligation on lawyers. He concludes that no such obligation should be imposed on the bar and that lawyer's contributions should derive solely from the ethical aspirations of the profession.

Smith, Chesterfield H., "A Mandatory Pro Bono Service Standard -- Its Time Has Come", 35 University of Miami Law Review, 727-737 (1981).

Former president of the ABA reviews why he believes mandatory public service requirements have consistently failed. Presents resolutions and argues that the pro bono responsibility must be satisfied by every attorney.

Snider, Robert M., "Counsel by Conscriptation", Los Angeles Lawyer, (June, 1984).

Describes the practical and legal issues presented in mandatory civil appointment. Discusses possible impact upon volunteer programs.

Special Committee on the Lawyer's Pro Bono Obligations, "Toward a Mandatory Contribution of Public Service Practice by Every Lawyer", Association of the Bar of the City of New York.

Reports the committee's consideration of the problem of satisfying the attorney's professional responsibility. Concludes that the profession should move toward a mandatory obligation program.

Spencer, Dean S., "Mandatory Public Service for Attorneys: A Proposal for the Future," 12 Southwestern University Law Review, 493-525 (1981).

Reviews the criticisms and supporting arguments for attorney mandatory public service. Evaluates three proposals for mandatory service. Argues that only a mandatory requirement will meet the legal needs of the indigent.

State Bar of California, "The State Bar of California Addresses Mandatory Pro Bono Issues" Background Paper prepared by the State Bar of California, Office of Bar Communications & Public Affairs (February 1984).

Outlines the California judicial and legislative actions on the issue of an attorney's pro bono obligation.

The State Bar of California, "Brief of Amicus Curiae: Yarbrough v. The Superior Court of the State of California In and For The County of Naples" Supreme Court of the State of California, S.F. No. 24698, (available from the American Bar Association). (June 11, 1984).

An amicus curiae brief submitted to support the proposition that the Court must exercise the power to order compensation and reimbursement for appointed counsel.

Torres, Joseph L., Stansky, Mildred R., "In Support of Mandatory Public Service Obligation" 29 Emory Law Journal 997 (1980).

Discusses the original version of Model Rule 8.1 that proposed a mandatory public service obligation. Addresses concerns and criticisms regarding mandatory pro bono.

Westchester Legal Services, "Memorandum of Law In the Matter of the Application of Farrell" Supreme Court of the State of New York, Index No. 07961/84, (available from the American Bar Association).

An amicus curiae brief submitted to support the argument that assignment of counsel in a civil case does not violate the rights granted by the U.S. Constitution.

SOURCES

American Bar Association
Private Bar Involvement Project
750 N. Lake Shore Drive
Chicago, IL 60611

Legal Services Corporation
Executive Office
400 Virginia Street
Washington, DC 20024
Attn: Jim Streeter or Joel Thimmel

National Legal Aid and Defender Association
Private Bar Section
1625 K Street, N.W.
Washington, DC 20006

Please consult your local law library for the books, and the articles from legal journals and law reviews.

XII. Fundraising

A. General Background Materials

Fund Raising: The Guide to Raising Money from Private Sources. Broce, Thomas E., University of Oklahoma Press, Norman, 1979.

Fundraising: Taking Care of Basics.

Robert Holst, PBI Activation Exchange, Volume 2, No.2:12-14 (June, 1984) (available from the American Bar Association). Brief review of the fundraising solicitation process.

Klein, Kimberly "Fundraising: Creating The Mood of Yes", PBI Activation Exchange, Vol. 3, No. 2:3-4,14 (July 1985).

Explains the best way to get individuals interested in fundraising and in supporting an organization.

Klein, Kimberly "Fundraising For Social Change". 1985

A nuts-and-bolts strategy book for small nonprofit groups. Discusses direct mailings, telephone, special events, and major gifts campaigns as fund raising options.

Fundraising.

Legal Counsel for the Elderly. Excerpted chapters from the manual of the same title, (available from the American Bar Association). Comprehensive overview on corporate, foundation, and government giving. Discusses the research process and provides a bibliography of resources and worksheets. Covers the grant writing process.

Grants: How to Find Out About Them and What to Do Next.

Virginia P. White. Taft (354 pp.). Information on various sources of funding: government, foundation, corporate, private. Explains how to locate and use funding sources. Focuses on the need to research funding sources.

Stimulating Foundation Interests.

Jill Nicholson. PBI Activation Exchange, Volume 2, No.2:11 (June, 1984) (available from the American Bar Association). Outlines the basics of researching foundations.

B. Directories

The following directories are the primary resources for researching corporate and foundation giving. The Foundation Center, 888 Seventh Ave., New York, NY, 10106 can inform you of a local library that contains these resources. To check on locations call toll-free (800) 424-9836.

Corporate 500: The Directory of Corporate Philanthropy. Prepared by research staff of Public Management Institute, 333 Hayes Street, San Francisco, California 94102 (744 pp.).

500 Ways for Small Charities to Raise Money. Phillip T. Drotning. Public Services Materials Center, 111 North Central Avenue, Hartsdale, New York 10530. Particularly good for small operations where one person may be responsible for the full gamut of research and fundraising.

The Foundation Center Source Book Profiles. The Foundation Center. 1984, Set of 500 profiles. Previous sets may be ordered. Analyses of the largest foundations, including corporate and community foundations. Subscribers receive 125 profiles per quarter, along with revised indices by name, subject interest, geographic limitations, etc.

The Foundation Directory. 9th Edition. The Foundation Center (1983, 638 pp). Information on foundations with assets in excess of \$1 million or grants of \$100,000+. More than 3,100 foundations included. Very basic information: name, address, giving interests, financial data, officers and directors, and grant application information. Indices by: state and city locations, personnel, fields or interest.

Foundation Grants Index. Annual with bi-monthly updates. Lists grants given by major foundations. Has recipient and subject index. Published by the Foundation Center.

National Data Book. 4th Edition. 2 volumes. The Foundation Center. Very basic information on more than 22,000 foundations. Alphabetical and geographic volumes. Includes: name, address, principal officer, financial data, annual report information.

Taft Corporate Information Center. Includes Corporate Directory (contact person, sample grants, areas of interest, officers, application procedures, etc. (400 pp). Corporate Updates (profiles on corporate foundations, issued monthly); Corporate Giving Watch (monthly newsletter: personnel changes, corporate earnings reports, acquisitions, etc.).

Taft Information System. Includes "Taft Foundation Reporter" (information about the major foundations, financial data, officers and directors, areas of interest, etc.); "Foundation Giving Watch" (monthly newsletter: trends in fundraising, lists of grants, legal aspects of fundraising, etc.); Profiles on Foundations (supplementary outlines).

C. Supplemental References

The following directories provide more detailed information about corporate structures and corporate officers.

Directory of Corporate Affiliations 1982: "Who Owns Whom": The Family Tree of Every Major Corporation in America. (1982). National Register Publishing Co., Inc., 5201 Old Orchard Road, Skokie, Illinois 60677. Includes companies listed on New York and American Stock Exchanges, the "Fortune 1000", and many that are privately-owned or traded over-the-counter. Separately bound geographical and foreign index.

Dun & Bradstreet Million Dollar Directory. Dun & Bradstreet, 99 Church Street, New York, New York 10007. Financial information, officers and directors, etc., of most major businesses.

Dun & Bradstreet Reference Book of Corporate Management. Information on officers and directors in 2,400 companies.

Standard and Poor's Register of Corporations, Directors and Executives. Standard & Poor's Corporation, 25 Broadway, New York, New York 10004. Three volumes and supplements. Information on corporations. Biographical data on officers and directors. Corporate "Family Tree" (Vol. III) makes it possible to determine "who owns whom".

D. State Directories

State directories.

State directories often provide a more detailed listing of the smaller state foundations than the national directories. These directories are updated sporadically. (A listing of the titles of the directories can be obtained from the American Bar Association.)

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